SUPREME COURT OF THE UNITED STATES.

No. 216.

THE UNITED STATES, APPELLANTS,

VS.

THE HEIRS OF JOHN LYND.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

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UNITED STATES OF AMERICA,
Eastern District of Louisiana:

United States District Court sitting in Chancery.

The Heirs of JOHN LYND
vs.
THE UNITED STATES.
} Land Cause No. 120.

Be it remembered that heretofore at the May Term, A. D. 1846, of the said court, to wit: on the sixteenth day of June of said year, the heirs of John Lynd, Plaintiffs in the above entitled cause, came, by their attorneys Mess. Elmore & King, into the office of the clerk of said court and there filed their petition, which is in the words and figures following, viz:

Petition filed June 16th, 1846.

To the Hon. the District Court of the United States for the District of Louisiana:—

The petition of Henry J. Lynd, Robert S. Lynd, William C. Lynd & Rosé Lynd wife of R. C. Cammack herein duly authorized by her said husband, who all reside in the State of Louisiana respectfully represent that they are the heirs & legal representatives of John Lynd deceased, who departed this life about the
day of

Petitioners allege that on or about the 28th day of September 1803 A. D. the said John Lind upon his application for the purpose, obtained from Juan Ventura Morales, the Intendant of the Province of Louisiana and West Florida under the Government of Spain an order of survey for the purchase of a large quantity of land which then belonged to the Government of Spain.—That under the said order of survey & with the view of purchasing the said land from the Spanish Government in conformity with the laws and usages of that government, he expended large sums of money and much labor in having the said surveys made.

That after granting the said order of survey, & inducing the said Lind to expend large sums in making the surveys with the view of purchasing the land the Government of Spain was bound in good faith as well as by the laws & usages of that government to have made a title to the said Lind upon his complying with the legal requisitions of that government for the sale of the public land.

Petitioners allege that the said Lynd, did within a reasonable time comply with all the legal requisitions for the sale of the public land of that government & that accordingly on the 12th day of July 1806, the said Juan Ventura Morales the duly authorized officer

& [illegible] public lands [illegible] then [illegible] at Pensacola a place within his jurisdiction, bargain, sell & convey to the said Lynd the following hereinafter described tracts or parcels of land to have & to hold the same to himself & his heirs forever, for and in consideration of the sum of three thousand one hundred & seventy-five & $\frac{75}{100}$ dollars.

The said land was surveyed by Vincente Sebastian Pintado the duly authorized surveyor of the Spanish Government in the Province of West Florida, who executed & returned the plans hereunto annexed as more fully appears from his report accompanying the said plans which is also annexed.

The following is a description of the land conveyed as above mentioned to the said Lynd—To wit on the plan number 1748 hereunto annexed three separate lots or parcels—Lot number one containing three thousand four hundred & forty arpents situated in the District of Baton Rouge in said Province of West Florida, on the west side of the river St. Helena or Amite, about twenty-one & one-third miles between the then boundary between the territory of the United States of America & the dominions of his majesty the King of Spain. The said tract being at the date of the survey bounded on the north by lands of Don Juan de Lassie, on the south by lot or tract number two granted to the said John Lynd, on the west by lands of Don Armando Duplantier & on the east by the river St. Helena or Amite.

Lot number two on the same plan bounded on the north by the aforesaid lot number one, on the south by lands belonging to Duplantier, on the west by lot number three on the same plan belonging to said Lynd, and on the east by the river St. Helena or Amit, said lot or tract contains two thousand four hundred & thirty arpents.

Lot number three of the same plan containing three thousand seven hundred & eighty arpents, bounded on the north by lands of Duplantier, on the south by other lands of Duplantier & C. de Armas, on the east by other lands of said Lynd to wit lot number two of the same plan, & on the west by Sandy Creek.

Two other lots as per plan number 1749, executed by the same Surveyor in the same District also hereunto annexed, to wit, Lot number four, containing about three hundred & ten arpents on the west side of Sandy Creek, at about one & one-fourth miles from its confluence with the River Amite, bounded on the north by lands of P. Forbes, on the south by lands of Carlos Ramos, west by public lands of the then Government of Spain & on the east by Sandy Creek.

The other lot on said plan, to wit, lot number five, containing about one thousand & thirty five arps. on the west side of the River Amite, about thirty two miles south of the parallel of thirty one degrees of north latitude, bounded on the upper side by lands of [illegible] the [illegible] in [illegible] the River Comite.

One other lot as per plan number 1750 executed by the same Surveyor & in the same District also hereunto annexed, to wit lot number six, containing about five thousand four hundred & seventy arpents on the west side of the River Comite, at the distance of twelve & three-fourth miles from the then boundary between the territories of the United States & the dominions of the King of Spain. Bounded on the north by lands of Don Manuel Garcia & Juan de Lasize, south by lands of C. de Armas, on the east by the River Comite & on the west by Royal Lands of the Government of Spain.

Three other lots or tracts of land as per plan number 1751, executed by the same Surveyor in the same District, also hereunto annexed, to wit lot number seven containing two thousand three hundred & seventy arpents, situated in Feliciana on the west bank of the Arroyo del Bosque Roxo (or Red Wood Creek) about four & one-half miles east of the River Feliciana & about thirteen miles north east one-quarter north from its confluence with the River Mississippi. Bounded on the north north-east by another lot of land belonging to said Lynd & of the same plan number eight, on the south south-east by lands of Don Juan Bautista Labatut & of Manuel Garcia, on the north north-east by lands of James Foster & on the east north-east by the Arroyo del Bosque Roxo.

Lot number eight of the same plan containing eight hundred & thirty six arpents, bounded on the south south-west by lot number seven of the same plan belonging to said Lynd & by lands of James Foster, on the north north-east by another lot belonging to the said Lynd, number nine of the plan, on the west north-west by Royal lands & on the east north-east by the Arroyo del Bosque Roxo.

Lot number nine of the same plan containing about six hundred and twenty arpents, bounded on the south south-west by lot number eight on the same plan, belonging to the said Lynd, on the north north-west by lands of Francisco Miranda, on the west by Royal lands and on the east by the Arroyo del Bosque Roxo.

Two other tracts as per plan number 1752, executed by the same Surveyor in the same District also hereunto annexed, to wit: lot number one containing about eleven thousand one hundred arpents, in Feliciana on the east side of the east branch of the River Feliciana, about four and one-fourth miles south of the thirty first degree of north latitude. Bounded on the north by lands of Manuel de Lanzas, on the south by lands of James Richardson, vacant lands and the Arroyo de los Castros and the lands of Juan Fala, on the east by lands of Joseph Reynes and William Stewart, on the west by those of Isabel McFarlane and the east branch of the River Fe-

licit[illegible]
Pedro Marigny and David Lejeune.

Lot number two containing six hundred and seventy arpents [illegible] New Feliciana, bounded north by lands of Juan Fala, south by vacant lands, east by lands of Joseph Reynes, and west by lands of William Stewart, Francisco Miranda, and Louis Delata.

All the foregoing descriptions are referred to the date of the Survey.

The foregoing facts and descriptions will more fully appear from a reference to the accompanying plans and report of the Surveyor, and to the title issued to the said Lynd by the said Morales which are hereunto annexed.

Petitioners allege that said claim to the above described land was presented by the said John Lynd for confirmation to James O. Cosby the Commissioner of Land Claims for the United States as will appear from the report thereon in the 18th volume American State papers pages 58 & 66.

Petitioners allege that at the date of the above mentioned surveys and sale to the said John Lynd he was a resident of the Province Louisiana and continued to be so until the time of his decease.

Petitioners further allege that the contract for the sale of the above described land, and the order of survey for the same, were legally made and issued by the proper authorities under the Spanish government at the date before stated and set forth in the annexed documents, that the rights of the said Lynd were protected by the Treaty between the United States of America & the French Republic of the 30th day of April 1803. And that the said rights of said Lynd might have been perfected into a complete title under and in conformity to the laws usages and customs of the government of Spain, under which the same originated, had not the sovereignty of the country been transferred to the United States.

Petitioners further allege that the rights of the said Lynd were perfected by a full and complete title granted to him by the duly authorized officers of the government of Spain, as appears from the annexed documents. That at the date of said title the said authorities had the right to dispose of the land therein granted and the government of the United States is bound by treaties with Spain and France to protect the rights of the said Lynd under his said title.

Petitioners allege that in virtue of the premises they are justly entitled to the land above described, but that always heretofore the United States government has refused to recognize the validity of said title.

Wherefore petitioners pray this Honorable Court to enquire into the validity of said claim or title.

Petitioners allege that they have been informed that the following persons have set up some sort of claim to portions of said land, to wit; John McQueen, Wesly Waddell, Thomas W. Scott, J. W. Hack-

[illegible] ourt,

Petitioners allege that they do not know what other persons may have claims to the land, or whether all of the above persons intend setting up claims to the land or any portions thereof.

Wherefore they pray that they may be allowed to amend this their petition if any further information is obtained in reference to the above parties or to those who may set up claims to the land.

They further pray that the above parties be cited to appear and answer this Petition, and that the United States of America be cited through the District Attorney of the United States and that after all due legal proccedings had the petitioners be decreed to be entitled to the land above described and their title to the same pronounced valid. And that if it should so happen that the land, tenements or heriditaments decreed to the petitioners, shall have been sold by the United States or otherwise disposed of, the petitioners be allowed to enter a like quantity of the public lands as provided by the eleventh section of the Act of Congress approved May 26th 1824, and for all other relief in the premises, &c.

(Signed) ELMORE & KING,
Solicitors for Petitioners.

I hereby authorize my wife to appear in the foregoing suit.
(Signed) R. C. CAMMACK.

William C. Lynd being duly sworn declares that all the facts set forth in the foregoing petition are true to the best of his knowledge and belief.
(Signed) W. C. LIND.

Sworn to and subscribed before me this 16th day of June 1846.
(Signed) N. R. JENNINGS, *Clk.*

Nota. For Doc: A. annexed to the foregoing petition, see page 15 of this transcript.

And thereupon, at the same term & on the same day to wit:—the 16th of June, A. D. 1846, was issued from the Clerk's Office the following

Citation.

United States District Court sitting in and for the District of Louisiana.

To the Marshal for the District of Louisiana, or his lawful deputy, greeting:

You are hereby commanded to summon S. W. Douns, Esquire, United States Attorney to appear before the Honorable Judge of

the D[illegible]
trict of Louisiana at a District Court [illegible] on the first Monday in July 1846, then and there to answer a petition in Chancery filed against the United States wherein the heirs of John Lynd are petitioners.

Herein fail not, and have you then and there this writ, with your endorsement thereon, how you have executed the same.

Mem: the defendant is to enter an appearance in this cause in the Clerk's Office on or before the first Monday of July 1846; otherwise the petition may be taken *pro confesso*.

Witness the Hon. T. H. McCaleb, Judge, this sixteenth day of June New Orleans, 1846, and 70th year of American Independence.

[SEAL.] (Signed) L. E. SIMONDS,
Dep. Clerk.

On which was duly registered, in the Clerk's Office the following

Marshal's Return.

Received, this 16th day of June 1846 and on the same day served copies of the within citation. Plaintiffs' petition and documents annexed, on the within named S. W. Douns, Esquire, United States Attorney, in the manner following, to wit: by leaving the same in his office in New Orleans in the hands of Mr. Alfred Perilliat, a white person over fourteen years of age and employed in said office —said attorney being at the time absent.

Returned 17 June 1846.

(Signed) W. T. WAGNER,
U. S. Marshal.

And afterwards, at the same Term, to wit: on the eleventh day of November, A. D. 1846, appeared the defendants by their attorney and filed the following

Answer.

HEIRS OF LYND
vs.
THE UNITED STATES.

In the District Court of the United States for the District of Louisiana.

The answer of the United States, defendants in the above named cause, respectfully shows, that they deny all and singular the facts and allegations in plaintiffs' petition contained.

Wherefore they pray that they be hence dismissed and that plaintiffs be condemned to pay all costs.

(Signed) THOS. J. DURANT,
Att'y U. S.

Nov. 11, '46.

[illegible] urt,
[illegible] copies of [illegible] —copies [illegible] of plaintiffs were issued from the Clerk's Office for service on various adverse claimants:

Whereupon, on the 20th April 1847 was made the following

Marshal's Return.

On the 10th of March 1847 served copies of the within petition on Thomas W. Scott, Samuel McMannus, and John Carr all in person, and on David Thomas by handing the same to his wife Mrs. Thomas a white person over 14 years of age at his domicil said Thomas being absent—all in the parish of East Feliciana—after diligent search and enquiry John McQueen, Westly Waddell, S. W. Hackney, and Beverly Dunn, could not be found.

Returned 20 April 1847.

(Signed) W. T. WAGNER,
U. S. Marshal.

And further, at the same term, to wit: on the eighth day of April A. D. 1847, the plaintiffs filed in the clerk's office the following

Replication.

To the Hon. the District Court of the United States in and for the Eastern District of Louisiana.

The replication of Henry J. Lynd, Robert S. Lynd William C. Lynd and Rosé Lynd wife of R. C. Cammack to the answer of the United States filed by the district attorney thereof in the suit pending in this Hon. Court between the said replicants and the United States & others.

These replicants saving & reserving unto themselves all & all manner of advantage of exception to the manifold insufficiencies of the said answer for replicating thereunto say that they will aver and prove their said bill to be true certain & sufficient in the law to be answered unto & that said answer of said defendant is uncertain, untrue & insufficient to be replied unto by there repliants; without this that any matter or thing whatsoever in said answer contained material or effectual in law to be replied unto confessed and advised traversed or denied is true all of which matters & and things these repliants are and will be ready to aver & prove as this Hon. Court shall direct & humbly pray as by their said bill they have already prayed &c.

(Signed) ELMORE & KING,
Solicitors for Complainants.

[illegible]

February term 1849—Thursday, April [illegible] record on the minutes of the court the following

Order.

HEIRS OF JOHN LYND
vs.
THE UNITED STATES } 120.

Upon motion of Elmore and King of counsel for the petitioners, it is ordered that the said cause be fixed for trial for Wednesday, the 21 inst. at 10. A. M. and that the district attorney be notified thereof.

Wherefore, at the same term, to wit: on the said *Wednesday*, *April* 21. 1849, was entered of record on the minutes of the court the following:

Trial and submission.

THE HEIRS OF JOHN LYND
vs.
THE UNITED STATES } 120

This cause fixed to-day for trial was called. W. W. King, of counsel for the plaintiffs and district attorney for defendants appeared. The testimony taken before the commissioner on behalf of the plaintiffs was read to the court, and after argument of counsel at length, the cause was submitted.

It being, as appears from the docket, first "ordered by the court, "on motion of the plaintiffs' counsel, that a discontinuance be en-"tered up as against Wiley Ingram, one of the parties named in "plaintiffs' petition."

And be it remembered that the documents this day offered in evidence by the plaintiffs and submitted to the court are the following, viz:

First. Document A.—Filed with and annexed to plaintiffs' petition, on the 16th June 1846; which document bears the endorsement, viz:

"Louisiana:—Recorded in the office of the clerk to the commissioner of land claims west of Pearl River and east of the Mississippi in Lib. No. 8 Vol. 152.

"CHARLES S. COSLY,
Clerk."

[illegible] the following [illegible] viz:

"Año de 1806

"Titulo de 32,025 arpanes de tierra que por compra ha obtenido Dn. Juan Lind en los distritos de Baton Rouge y Na. Feliciana con cinco planos figurativos, desde el No. 1748 hasta 1752 y la correspondiente explicacion del Agrimensor Rl. Dn. Vicente Sebastian Pintado," and is in the words and figures following, viz:

[For Maps see original, pages 16, 17, 18, 19 & 20.]

Don Vicente Sebastian Pintado Capitan de Cavalla. de Milicias y segundo agrimensor de esta Provincia.

Certifico: que han sido medidos y lindados á favor de Dn. Juan Lynd, onze terrenos componiendo sumos treinta y dos mil y veinte y cinco arpanes planos, medidos á la percha lineal de la ciudad de Paris de diez y ocho pies de la misma ciudad, contando, cien perchas planas por arpan segun costumbre agraria de esta provincia, y conforme a los onze planos que anteceden; cuyas situaciones, linderos y numero de arpanes planos de cada terreno de por si, es como sigue:

Plano No. 1.—Tres mil quatro cientos y quatro arpanes en la margen occidental del Rio de Sta. Helena ó Amit, á veinte y una millas y tercio, cortas, al sur de la linea de limites entre estos Dominios de S. M. (que Dios gue.) y los Estados Unidos de la America, lindando por la parte septentrional, con tierras de Dn. Juan Delassize, por la meridional con otras del interesado (terreno No. 2), por la occidental con las de Dn. Armando Duplantier y por la oriental confina ó se termina en el antedicho Rio Amit.

Plano No. 2.—Dos mil quatro cientos y treinta arpanes en la misma margen occidental del Rio Amit, á veinte y tres millas y media al sur de la antedicha linea de limites lindando por la parte arctica, con tierras del interesado, terreno No. 1. por la antarctica, con otras de Dn. Armando Duplantier, por el poniente con otras del mismo interesado torreno No. 3 y por el levante confina con el antedicho Rio de Sta. Helena ó Amit.

Plano No. 3.—Tres mil setecientos y ochenta arpanes planos en la margen oriental del arroyo de Sta Rosalia, vulgarmente llamado *Sandy Creek*, y a la misma dista. de la linea de limites que el antecedente, lindando por la parte del norte, con tierras del citado Dn. Armando Duplantier, por la del sur con otras del mismo Duplantier y de Don Christoval de Armas, por la del este con el terreno No. 2.—del interesado y por la del oeste termina en el citado Arroyo *Sandy Creek*.

Plano No. 4.—Tres cientos y diez arpanes en la margen occidental del refer[illegible] Santa Rosalia ó Sandy Creek á una milla quarto de su confluencia con el Amit lindando por la parte Bore con tierras ocupadas por Patricio Forbes, por la Austral con el terreno de doze mil ciento y ocho arpanes de Don Carlos Ramos por la occidental con tierras valdias, y por la oriental se termina en el antedho. Arroyo Sandy Creek.

Plano No. 5.—Un mil treinta y cinco arpanes en la margen occidental del Rio de Sta. Helena ó Amit á treinta y dos millas al sur de la linea divisoria ó paralela de treinta y un grados, lindando por la parte de arriba, con tierras ocupadas por Dn. Edouardo Ross, por la de abaxo con las ocupadas por Nehemias Power, por el fondo con tierras realengas y por el frente se termina en la orilla del antedho. Rio Amit.

Plano No. 6.—Cinco mil quatro cientos y setenta arpanes en la margen occidental del Rio Comit, a doze millas y tres quartos de la linea que separa estos Dominios del Rey del territorio Americano, lindando por la parte del Norte con tierras apeadas para Dn. Manuel Garcia y un terreno de quinientos arpanes concedidos á Dn. Juan Delassize por el Sor. Dn. Manual Gayoso de Lemos Gobernador genl. que fué; por la del sur con tierras medidas á favor de Dn. Christoval de Armas, por la del Este confina con el antedho. Comit y por el oeste linda con tierras realengas.

Plano No. 7.—Dos mil tres cientos y setenta arpanes en el Distrito de la Feliciana en la margen occidental del Arroyo del Bosque Roxo a quatro y media millas al este del Rio Feliciana y a trece millas al N. E. ¼ N. de su confluencia con el Mississippi, lindando por la parte de N. N. E. con otro terreno del interesado, No. 8, por el S.S.O. con tierras de Dn. Juan Bta. Labatut y otras apeadas á favor de Dn. Manl. Garcia; por el O. N. O. con tierras de Santiago Foster y casi con las de Dn. Joseph Bernardo de Heria y por la parte que mira al E. N. E. se termina en el antedho. Arroyo del Bosque Roxo.

Plano No. 8.—Ocho cientos treinta y seis arpanes en el mismo distrito y margen occidental del Bosque Roxo lindando por la parte del S.S.O. con el antedho. terreno No. 7, y con tierras de Santiago Foster, por la del N. N. E. con otro terreno del interesado No. 9 por la del O. N. O. con tierras realengas y por la parte que mira al E. N. E. con el antedho. arroyo del Bosque Roxo.

Plano No. 9.—Seiscientos veinte arpanes en el referido distrito y dho. margen occidental del Bosque Roxo á quatro millas al Este del Rio Feliciana y a diez y seis millas al N. E. ¼ N. de su confluencia con el Mississippi, lindando por la parte del S. S. O. con el No. 8, del interesado por el N. N. O. con tierras de Dn. Francisco Miranda, [illegible] oeste con dhas. realengas, y por [illegible] antedho. [illegible] del Bosque Roxo.

Plano No. 10.—Onze mil y cien arpanes en el citado Distrito de la Feliciana, en la margen oriental del brazo del Este del Rio del mismo nombre del Distrito á quatro millas y quarto, cortas, al sur de los treinta y un grados, limites entre estos Dominios y el territorio Americano, lindando por la parte del Norte con tierras de Dn. Manl. de Lanzos, por la del sur con tierras de Santiago Richardson, tierras vacantes, el Arroyo de los Castores y tierras de Dn. Juan Tala; por el Este, con tierras de Dn. Joseph Reynes, y con las reclamadas por Guillermo Stuart, por el oeste con las de Isabel Mc Farland y con el antedho. brazo del este del Rio Feliciana; y por el centro con tierras de Dn. Isaac y Dn. Juan Johnson, Dn. Pedro Marigny, y Dn. David Lejeune; cuyos onze mil y cien arpanes planos, se hallan contenidos entre las lineas rectas y curbas, marcadas con color roxo en el plano, exclusivo de tres cientos arpanes planos medidos anteriormente en las cercanias del Punto (A.) del Plano á favor de Domingo Lonero ahora difunto.

Plano No. 11.—Seiscientos setenta arpanes en el antedho. Distrito á seis millas y tres quartos al Este del Rio Feliciana y a seis millas y tres quartos al sur del paralelo de trienta y uno grados, lindando por el Norte, con tierras de Dn. Juan Tala; por el sur con otras vacantes, por el Este con las de Dn. Joseph Reynes, y por el oeste con las reclamadas por Guillo. Stuart y las concedidas a Dn. Francisco Miranda y a Luis Delatt. Todo lo que manifestan clara y distintamente los planos, que anteceden, en los que cada terreno de por si va figurado, con mas las dimensiones de sus lados anotadas en perchas lineales, las direcciones de sus limites segun la Brujula, la declinacion N. E. de esta, los arboles y mojones que sirven de linderos y los demas confines naturales y artificiales.

Los treinta y dos mil y veinte y cinco arpanes, son parte de los quarenta mil que solicita comprar de la Rl. Hacienda el interesado y que fueron mandados medir y estimar, por auto del Sor. Intendente general de veinte y ocho de Septiembre ultimo segun parece del despacho de primero de Octubre siguiente, librado, a este fin, al Sor. Dn. Carlos de Grand-Pré Coronel de los Rs. exercitos Gobernador Politico y Militar de estos Puestos y subdelegado de la Intenda. gral.; y de los que solicito Dn. Samuel Fulton apoderado del interesado, se le despachasen las correspondientes diligencias para obtener los titulos en forma, interin el tiempo dá lugar de deslindar y apear los siete mil novecientos y setenta y cinco arpanes restantes, para el completo de los quarenta mil. Y haviendo nombrado dho. Sor. Gobernador y subdelegado, á Dn. Pedro Allain y Dn. Felix Bernardo Dumontier por peritos estimadores, por lo respectivo a la Rl. Hacienda; y el apoderado de la parte, nombrado por la suya á Dn. Phelipe Hicky y á Dn. Bernardo Dubroca, y por haverse ausentado Dn. [illegible] á su padre Dn. Danl. Hicky, [illegible] juntos y con la asistencia de los testigos Luis Delatt y Juan [illegible] procedieron á la estimacion que hicieron en la forma sigte.

Los veinte mil doscientos y cinqta. y cinco arpanes contenidos en los Planos desde No. 1º hasta No. 9, inclusivos á razon de diez sueldos por cada arpan plano. Y los onze mil setecientos y setenta contenidos en los Planos No. 1º. y No. 11, á razon de nueve sueldos por cada arpan plano, formando todo junto la suma de tres mil ochenta y quatro pesos seis reales y medio, con corta difna.; los que visto por el antedho. apoderado Dn. Samuel Fulton, se conformó y recivio compradas dhas. tierras en la forma que va dicha, y de ellas se dio por entregado y satisfho. a toda su voluntad, y lo firmó con los estimadores y testigos en Baton Rouge á *quinze dias del mes de Marzo de mil ocho cientos* y quatro años.

Nota.—En la diligencia de apeo del terreno de doze mil ciento y ocho arpanes de Dn. Carlos Ramos se dice lindan este, por la parte septentrional con tierras ocupadas por Patricio Forbes; y en esta hablando del terreno No. 4 se dice que est linda tambien por la misma parte con tierras ocupadas por el mismo Forbes. La razon es que en el primero caso Forbes reclamaba hasta alli; y en el segundo que haviendo hallado, que era mas tierra de que, segun su familia pudiera tocarle, se estrecho espacio que pretendia, Vicente Sebasn. Pintado, Saml. Fulton, Phelipe Hicky, Bernardo Dubroca, Felix Bernardo Dumontier, Pedro Allain, Juan Poset, Luis Delatt.

Don Vicente Sebastian Pintado Actual Agrimensor Gral. de Florida occidental.

Certifico: que los planos y diligencias de apeo y estimacn. que anteceden son conformes á los documentos originales anexos al expediente del asunto, y que se hallan registrados en el lib. VI. de apeos desde fol. 8 hasta 14, inclusivos; y en conformidad de auto del Señor Dn. Juan Ventura Morales Intendte gral. interino de esta Provincia y subdelegado de la Superintenda. gral. de tres del Corriente, doy la presente copia para agregar del Titulo en forma. En la Plaza de Panzacola á los nueve dias del mes de Junio de mil ochocientos y seis años.

(Signed) VICENTE SEBASTIAN PINTADO.

Don Juan Ventura Morales, Intendente Interino y Superintendte Gral. Subdelegado en esta Provincia de la Florida Occidental, Juez de Arribadas, de Tierras y Solares Realengas &a.

Por quanto habiendose presentado en el Tribunal de esta Intendencia Dn. Juan Lind, en 26 de Septiembre de 1803 pretendiendo comprar á justa tazacion quarenta mil arpanes de tierras realengas, que ofrecio satisfacer un tercio de contado, otro en seis meses y el otro en un año desde el dia que se le expidise el Titulo de propiedad; dando las seguridades correspondientes á favor de la Rl.

[illegible] y admitida dicha Instancia se mandó [illegible] en ella por secretaria copia certificada del [illegible] de Julio del mismo año dirigido á la misma Intendencia a los Sres. Comisarios de la entrega de la Provincia de la Luisiana, de resultas de la solicitud hecha por Dn. Tomas Urquhart, para la compra de cinquenta mil arpanes de tierra, y de la respuesta que dieron dhos. señores en 28 del mismo mes de Julio, de lo que se dió vista al Sor. Fiscal de Rl. Hacienda, que opinó a favor de la venta, pidiendo conforme al reglamento las condiciones que le parecieron convenientes para seguridad de la Real Hacienda. Se mandó en seguida se extendiese copia del dictamen dado por el Sor. Teniente de Gobernador, y Auditor de Guerra con fecha de 9 de Agosto en la misma solicitud de Dn. Thomas Urquhart, y por providencia de 28 del expresado Septre. se mando librar Despacho disponiendo el deslinde, apeo y estimacion, de los quarenta mil arpanes de tierra de las que se hallasen vacantes en el Puesto de Baton Rouge, cuyo despacho tubo efecto, librandose en 1º de Octubre del mismo año, y cumplimentado por el Sor. Coronel Dn. Carlos de Grand-Pré, Comandante y Subdelegado de esta Intendencia Gral. en los dias siete a nueve de Noviembre del referido año procediendose por el segundo Agrimensor Dn. Vicente Sebastian Pintado Capitan de Caballeria de Milicias y en la actualidad Agrimensor Gral. de esta Provincia al apeo y deslinde de solos treinta y dos mil veinte y cinco arpanes planos de tierra en la forma siguiente: tres lienzos de tierra en el Plano No. 1748, el primero baxo el No. 1º de tres mil quatrocientos quatro arpanes sobre la margen occidental del Rio de Sta. Elena ó Amit á veinte y una millas y un tercio cortas al sur de la linea de limites entre el Territorio de S. M. (que Dios gue.) y los Estados Unidos de America, lindando por la parte Septentrional con tierras de Don Juan de Lasize, por la meridional con la del mismo Lind terreno No. 2; por la occidental con las de Dn. Armandò Duplantier, y por la oriental con el antedicho rio de Sta. Elena ó Amit. El segundo baxo el No. 2. sobre el mismo Rio Amit ó Sta. Elena de dos mil quatrocientos treinta arpanes como a veinte y tres millas y media al sur de la antedicha linea de Limites, cuyos linderos son por la parte arctica con tierras del referido Lind, terreno No. 1º por la antarctica con otras de Dn. Armando Duplantier, por el poniente con otras del mismo Lind terreno No. 3 y por el levante con el antedho. rio Sta. Elena ó Amit, el tercero baxo el No. 3, de tres mil setecientos ochenta arpanes sobre la margen oriental del Arroyo de Sta. Rosalia (alias Sandy Creek) y a la misma distancia de la linea de Limites que el antecedente, cuyos linderos son por la parte del Norte con tierras del citado Dn. Armando Duplantier, por el sur con otras del mismo Duplantier y de Dn. Christoval de Armas, por el este con otras del mismo Lind, Terreno No. 2 y por el oeste con el citado Arroyo de Sta. Rosalia ó Sandy Creek.

Dos lienzos de tierra en el Plano No. 1749, el uno baxo el No. 4 de tres cientos diez arpanes sobre la margen occidental del men-

[illegible] Rosalia, ó Sandy Creek á una milla y quarto de su [illegible] con el Amit, cuyos linderos son por la [illegible] boreal con tierras occupadas por Patricio Forbes, por la austral con las de Dn. Carlos Ramos, por la occidental con tierras realengas, y por la oriental se termina con el antedicho Arroyo Sandy Creek ó Sta. Rosalia. El otro lienzo baxo el No. 5 de mil treinta y cinco arpanes sobre la margen occidental del Rio Sta. Elena ó Amit á treinta y dos millas al sur de la linea divisoria ó paralela de treinta y un grados, cuyos linderos son por la parte arriba con tierras ocupados por Dn. Eduardo Ross por la del abaxo con las de Nehemias Power por el fondo con tierras realengas, y por el frente se termina con la orilla del antedicho Rio Amit ó Sta. Elena.

Un lienzo de tierra No. 1750, de cinco mil quatro cientos setenta Arpanes baxo el No. 6 sobre la margen occidental del Rio Comit á doce millas y tres quartos de la linea que separe la parte de los Dominios del Rey con el Territorio Americano, cuyos linderos por la parte del Norte son con tierras apeadas para Dn. Manuel Garcia y Dn. Juan De Lasize por el sur con tierras medidas á favor de Dn. Christoval de Armas por el este confina con el antedicho Rio Comit y por el oeste con tierras Realengas.

Tres lienzos de Tierra en el plano No. 1751, el uno baxo el No. 7 de dos mil tres cientos setenta Arpanes en el Distrito de la Feliciana sobre la margen occidental del Arroyo del Bosque Roxo, a quatro y media millas al Este del rio Feliciana y á trece millas al Nordeste quarta al Norte de su confluencia con el Mississippi, lindando por la parte del Nornordeste con otro terreno del Interesado No. 8, por el sur sudoeste con tierras de Dn. Juan Bautista Labatut y otras apeadas á favor de Dn. Manuel Garcia, por el oesnoroeste con tierras de Santiago Foster, y casi con las de Dn. José Bernardo de Heria, y por la parte que mira al Esnordeste se termina en el antedicho Arroyo del Bosque Roxo: Otro lienzo de Tierra baxo el No. 8, de ochocientos treinta y seis Arpanes en el mismo Distrito y margen occidental del Arroyo del Bosque Roxo, cuyos linderos son por la parte del sur sudoeste con el antedicho terreno No. 7 y con tierras de Santiago Foster, por la del Nornordeste con otro terreno del interesado No. 9, por la del Oesnoroeste con tierras Realengas, y por la parte que mira al Esnordeste con el antedicho Arroyo del Bosque Roxo: Otro lienzo de tierra señalado en dicho Plano con el No. 9 de seis cientos veinte arpanes en el referido Distrito y margen occidental del Bosque Roxo a quatro millas al Este del Rio Feliciana, y a diez y seis millas al Nordeste quarta al Norte de su confluencia con el Mississippi cuyos Linderos son por la parte del Sursudoeste con tierras del Interesado del Plano No. 8 por el Nornoreste con tierras de Dn. Francisco Miranda por el Oeste con tierras Realengas y por el Este con el dicho arroyo del Bosque Roxo.

Dos lienzos de tierra contenidos en el Plano No. 1752 el uno baxo el No. 1º. de once mil cien arpanes en el citado Distrito de la Nueva Feliciana en la margen occidental del brazo del Este del Rio del nombre á quatro millas y quarto al [illegible] y de gra- [illegible] limites entre los Dominios del Rey y el [illegible] Americano; cuyos linderos son por la parte del Norte con tierras de Dn. Manuel de Lanzos, por la del sur con las de Santiago Richardson, tierras vacantes, el Arroyo de los Castores, y tierras de Dn. Juan Tala por el Este con las de Dn. José Reynes, y con las reclamadas por Guillermo Stuart, por el oeste con las de Isabel Mc. Farland, y con el antedicho braso del Este del Rio Feliciana, y por el centro con tierras de Dn. Isaac y Dn. Juan Johnson, Dn. Pedro Marigny y Dn. David Lejeune; siendo de advertir que los once mil y cien arpanes planos se hallan contenidas en el Plano figurativo entre las lineas rectas y curbas marcadas con color roxo, exclusivos tres cientos arpanes medidos anteriormente en las cercanias del punto A. de dicho Plano á favor de Domingo Lorero ya difunto. El otro lienzo contenido en el mismo Plano No. 1752 de seis cientos setenta en el indicado Distrito de la Nueva Feliciana á seis millas y tres quartos del rio del mismo nombre, y a seis millas y tres quartas al sur del paralelo de treinta y un grados lindando por el Norte con tierras de Dn. Juan Tala, por el sur con otras vacantes, por el Este con las de Dn. José Reynes, y por el oeste con las reclamadas por Guillermo Stuart, y las concedidas á Dn. Francisco Miranda, y a Luis Delatt. Los quales treinta y dos mil veinte y cinco arpanes de Tierra que se comprehenden en los once lienzos de tierra contenidos en los cinco Planos figurativos, formados por el actual Agrimensor general Dn. Vicente Sebastian Pintado con la correspondiente explicacion fueron estimados por los Peritos nombrados por parte de la Rl. Hacienda Dn. Pedro Allain, y Dn. Felix Bernardo Dumontier, y por la del Interesado Dn. Felipe Hicky, y Dn. Bernardo Dubroca con asistencia del Agrimensor de Dn. Samuel Fulton como Apoderado de Dn. Juan Lind, y de dos testigos judiciales en falta de Escribano á razon de diez sueldos torneses cada arpan plano de los veinte mil doscientos cinquenta y cinco contenidos en los planos figurativos numerados desde 1° a 9, y los once mil setecientos y setenta contenidos en los numeros diez y once á razon de nueve sueldos con que se conformó el Apoderado de Dn. Juan Lind, y recibio en aquel acto dichas tierras por compradas á su entera satisfaccion firmado la diligencia con los peritos, estimadores, Agrimensor, y testigos. Debiendo prevenirse para evitar toda duda que el lienzo de Tierra No. 4, se dice linda con las de Patricio Forbes, por que este reclamaba mas porcion de la que por su familia podia tocarle por lo que se estrecho el espacio que pretendia como explica la nota del Agrimensor, y estimadores; y unidos al expediente los cinco planos expresados con las diligencias de apeo, y estimacion, que presentó el interesado se dió vista al Señor Fiscal de Real Hacienda por decreto de veinte y ocho de Abril de mil ochocientos quatro, y contesto en treinta del misma mes pidiendo se formalizase por el Ministerio de Rl. Hacienda, la minuta de la estimacion de dichas tierras que encontró arreglada. Pedi los Autos por pro[illegible] Abril de mil ochocientos y quatro [illegible] por otra de [illegible] ayo siguiente dispuso que el agrimensor G[illegible] Dn. Carlos Trudeau, examinase las operaciones del particular D[illegible] Vicente Pintado, tomase la razon si las encontrase arregladas y pro-veyse los planos dobles para acompañar al titulo ; lo que no tubo efécto hasta que en 25 de Abril del presente año se presento el referido Dn. Juan Lind, exponiendo que a causa de haberse opuesto el Señor Commandante de esta Plaza no solo á las concessiones de tierras si no tambien á reconocer la autoridad de esta intendencia en la jurisdiccion de su mando, habia quedado pendiente como todas las demas, pero que cerciorado de haber vuelto las cosas á su antiguo orden recurria de nuevo suplicando que en atencion á los muchos gastos, y desembolzos que hizo en el deslinde, y apeo de las tierras se le admitiese el pago del valor de ellas, y le proveyeron los titulos en debida forma, y habiendose reunido las diligencias por providencia de tres de Junio se pasaron al agrimensor General Dn. Vicente Pintado, para que evaquase lo que se previno á su antecesor Dn. Carlos Trudeau lo que cumplio agregando la copia de los planos y diligencias de apeo y estimacion, y registrado todo en el Libro VI. desde la foxa ocho hasta la catorce inclusivos, provei en tres de Junio ultimo un auto cuyo tenor es el que sigue. Vistos y que habiendose pedido en tiempo habil Dn. Juan Lind, la merced a titulo de venta de quarenta mil arpanes de tierra, en el Distrito de Baton Rouge, de los quales segun consta de los cinco planos unidos á estas diligencias, se han deslindado, y apeado treinta y dos mil veinte y cinco arpanes, cuyo costo ha soportado dicho Lind. Teniendo igualmente en consideracion, no solo que por real orden de veinte y nueve de Mayo del año de mil ochocientos quatro aprobó S. M. la venta de tierras hechas en el Distrito de Baton Rouge, sino que tambien por otra real determinacion de veinte de Febrerro del año proximo pasado, levanto los inconvenientes puestos por la comandancia de esta Provincia a la venta de tierras realengas y mandó, que la intendencia que está á mi cargo concluyese los expedientes que estubieron iniciados, y admitiera las solicitudes que se presentasen con el propio objeto, á fin de sacar el mejor partido en favor del Real Erario, que ofreciesen las circunstancias, consequente á lo qual en vista de lo opinado por el Sor. Fiscal de Real Hacienda, y consultado por el Sor. Auditor en el expediente formalizado para poner expedito este punto : se acordó en Junta de Real Hacienda celebrada en veinte y uno del anterior, se procediese á concluir las causas iniciadas, sobre venta de tierras, y que se admitiesen quantas nuevas demandas se hizieron, para por este medio llenar las intenciones soberanas. Teniendo asi mismo el consentimiento que dió la parte del Real Fisco en su escrito de treinta de Abril de 1834, á la estimacion efectuada á los citados treinta y dos mil veinte y cinco arpanes de tierras planos apeados en los once lienzos que demuestran los cinco planos : concedense desde luego al exprezdo. Dn. Juan Lind los referidos treinta [illegible] mil veinte y cinco arpanes [illegible] [illegible] los predichos cinco planos levantados [illegible] agrimensor que ahora lo es General de la provincia Dn. Vicente Sebastian Pintado: y en su consequencia aprovandose como desde luego se aprueba la estimacion hecha por los peritos juramentados, á razon diez sueldos torneses, los veinte mil dos cientos cinquenta y cinco arpanes, contenidos en los planos de 1 á 9 y al respecto de nueve sueldos los once mil setecientos setenta arpanes contenidos en los planos No. 10. y 11. pasé el Expediente al Ministerio de Real Hacienda para que liquidado por el, el importe se haga entero en caxas reales en certificaciones de credito de los oficios de Real Hacienda de la Luisiana, con mas lo correspondiente al derecho de media annata, y conduccion á España, y constando en este expediente el efectivo pago, despachase el titulo de propiedad en forma. Y verificada la liquidacion por el ministerio de Real Hacienda de esta plaza resultó que los treinta y dos mil veinte y cinco arpanes planos de tierra concedidos á Dn. Juan Lind conforme á su tazacion importaron tres mil ciento setenta y cinco pesos, seis reales y diez y siete maravedis comprehendida en esta suma los noventa y un pesos correspondientes al Rl. derecho de Media Annata, y diez y ocho por ciento de su conduccion á los Reynos de Castilla: segun se comprueba de la carta de pago que en dos del corriente mes otorgó el Señor Ministro Tesorero de estas Reales Caxas á favor del sub-teniente del Regimiento de la Luisiana Dn. Francisco Dalcour, como apoderado substituto de Dn. Juan Lind, la qual corre con el testimonio del poder en el expediente del asunto. Y usando de las facultades que por mi Ministerio me son conferidos, en nombre del Rey Nuestro Señor (Dios le guarde) concedo al supradicho Dn. Juan Lind, a titulo de venta por la Real Hacienda los treinta y dos mil veinte y cinco arpanes planos de tierra realenga en los parages, y baxo los linderos rumbos y distancias que se mencionan en los cinco planos figurativos y diligencias de apeo certificaciones del agrimensor general Dn. Vicente Sebastian Pintado, cuyos duplicados para que en todo tiempo conste se colocan y archivan con este titulo: en consequencia le declaro, e imparto entero, y directo dominio de los enunciados treinta y dos mil veinte y cinco arpanes planos de tierra para que como suyos propios los posea, disjunte, disponga y enagene á su voluntad como que los ha comprado y pagado á la Real Hacienda; y le doy poder para que tome su posecion en la que le pongo y amparo sin perjuicio de tercero que mejor derecho tenga: con la calidad, y condicion, que ha de observar y cumplir con lo dispuesto en la instruccion formada, y publicada por la Intendencia General de la retrocedida Provincia de la Luisiana en diez y siete de Julio de mil setecientos noventa y nueve de que se impondra para su observancia. En fe de lo qual mandé despachar el presente firmado de mi mano, sellado con el de mis armas y refrendado del infrascripto secretario interino de esta Intendencia General, en cuya oficina, como en las del Ministerio de

Real H[illegible] se tomará la razon. Dado en P[illegible] cola á doce de [illegible] mil ochocientos seis.

[SEAL.] (Signed) JUAN VENTURA MORALES,
FRANCO. GUTIERREZ DE ARROYO.

Queda registrado el titulo antecedente a foxs. 102 buelta hasta la 109, id. del libro destinado á este efecto, el que por ahora existe á mi cargo, y a que me remito. Panzacola veinte y uno de Julio de mil ochocientos y seis.

(Signed) FRANCO. GUTIERREZ DE ARROYO.

La contaduria pral. de exto. de esta provincia se tomó razon del titulo antecedente al folio 60, Panzacola 14 de Agosto de 1806.

(Signed) JUAN FRANCO. ARMANDO.

Nota.—The foregoing Document A. is also thus endorsed:

"U. S. Dist. Court. Filed, June 16, 1846. L. E. Simonds, *Dep.* "*Clk.*" Offered in evidence before jury, objected to, but admitted and read June 1, 1849.

"ROBR. M. LUSHER,
"*Dep. Clerk.*"

Translation of foregoiny Document A.

Made by Edward Lauve.

Filed Dec. 9th, 1849.

[*Nota.*—For Plans, see originals, pages 16–20 inc.]

Title of property to 32,025 arpents of land bought by Don Juan Lind situated in the District of Baton Rouge and New Feliciana. With five figurative plans with the notes and explanations of the royal and special surveyor Don Vicente Sebastian Pintado.

Don Vicente Sebastian Pintado captain of militia cavalry and deputy surveyor of this province.

I certify that there have been measured and the boundaries defined in favor of Don Juan Lind, eleven tracts of land, containing altogether thirty two thousand and twenty five superficial arpents measured by the lineal perch of the city of Paris of eighteen feet of said city, counting one hundred superficial perches to the arpent, according to the agrarian custom of this province, the situation or location, boundaries and number of superficial arpents of each tract of land are as follows—

Plan No. 1.—Three thousand four hundred and four arpents on the west bank of the river St. Helena or Amite at 21 miles and ½ in the direction south of the boundary line of the domains of his majesty (whom may God preserve) and those of the United States of

miles, bounded on the north by the [illegible], on the south by the lands of the party in interest, (Tract No. 2) on the west by the lands of Don Armand Duplantier, and on the east bounded or terminating by said river Amite.

Plan No. 2.—Two thousand four hundred and thirty arpents on the said west bank of the river Amite at twenty three miles and a half to the south of the said boundary line, bounded on the north by lands of the party in interest, Tract No. 1, on the S. by lands of Armand Duplantier, on the west by other lands of the party in interest, Tract No. 3, and on the east bounded or terminating by said river St. Helena or Amite.

Plan No. 3.—Three thousand seven hundred and eighty superficial arpents on the east bank of the rivulet St. Rosalie, commonly called Sandy Creek and at the same distance of the boundary line as the preceding tract, bounded on the north by lands of Don Armand Duplantier, on the south by other lands of said Duplantier and of Don Christoval de Armas. On the east by Tract No. 2 of the party in interest, and on the west terminating by said *Sandy Creek.*

Plan No. 4.—Three hundred and ten arpents on the west bank of said rivulet (Arroyo) Sandy Creek, at one mile and a fourth of its junction with the Amite, bounded on the north by lands occupied by Patricio Forbes, on the south by the tract of twelve thousand one hundred and eight arpents of Don Carlos Ramos; on the west by lands uncultivated; and on the east terminating by s'd rivulet (Arroyo) Sandy Creek.

Plan No. 5.—One thousand and thirty five arpents on the west bank of the river St. Helena or Amite at thirty two miles to the south of the line of division or parallel of thirty one degrees, bounded on the upper part by lands accupied by Don Edouardo Ross, on the lower part by lands occupied by Nehemias Power, on the depth by royal lands and in front terminating by said river Amite.

Plan No. 6.—Five thousand four hundred and seventy arpents on the west bank of the river Comite, at twelve miles and three fourths of the line which divides the domains of the king from the American territory, bounded on the north by lands surveyed for Don Manuel Garcia and a tract of five hundred arpents conceded to Don Juan Delasize, by his excellency Don Manuel Gayoso de Lemos, formerly governor general, on the S. by lands measured for Don Christoval de Armas, on the east bounded by said river Comite, and on the west by royal possessions.

Plan No. 7.—Two thousand three hundred & seventy Arpents in the District of Feliciana on the West bank of the Rivulet "Red Wood" (Bosque Roxo) at four & a half miles to the East of the River Feliciana and at thirteen miles to the N. E. ¼ N. of its junction with the Mississippi, bounded on the N. N. E. side by lands of the party in Interest. (Tract No. 8) on the S. S. W. by lands of Don Juan Baptist Labatut & others surveyed in favor of Don Manuel

Garcia [illegible] by lands of Santiago Foster & [illegible] by those of [illegible] Bernardo de Olero, and on the side [illegible] to the E. N. E. terminating by said Rivulet of "Red Wood."

Plan No. 8.—Eight hundred & thirty six Arpents in the same District and West Bank of "Red Wood" bounded on the S. S. West by said mentioned tract No. 7 and lands of Santiago Foster, on the N. N. East by another Tract of the party in Interest No. 9. On the N. N. West by Royal Lands, and on the side looking to the E. N. East by said mentioned Rivulet "Red Wood."

Plan No. 9.—Six hundred & Seventy Arpents in said District and West Bank of "Red Wood" (Bosque Roxo) at four miles to the East of the River Feliciana and sixteen miles to the N. E. ¼ N. of its junction with the Mississippi, bounded on the S. S. West by Tract No. 8 of the party in Interest, on the N. N. West by lands of Don Francisco de Miranda, on the West by Royal Dominions, & on the East by said "Red Wood."

Plan No. 10.—Eleven Thousand one Hundred Arpents in the said District of Feliciana on the East Bank of the Eastern Branch of the river of the name of that District, at four miles & a fourth to the South of the Thirty one Degrees, boundaries between these Domains & the American Territory, bounded on the North by lands of Don Manuel de Lanzos, on the South by lands of Santiago Richardson, Vacant lands, the Rivulet of the Beavers (Arroyo de los Castores) and lands of Don Juan Tala—On the East by lands of Don Joseph Reynes, and those claimed by Guillaim Smart, on the West by lands of Isabel McFarland and said East Branch of the River Feliciana, and in the Center by lands of Don Isaac and Don Juan Johnson, Don Pedro de Marigny & Don Manuel Le Jeune, which Eleven Thousand one hundred Arpents are to be found between the Straight & Curb lines marked in Red on the Plan, exclusive of 300 superficial Arpents measured previously in the vicinity of Point A of the Plan, in favor of Domingo Loreno, now dead.

Plan No. 11.—Six hundred & Seventy Arpents in said District at six miles & three fourths to the East of the River Feliciana & at six miles & three fourths of the parallel of thirty one degrees, bounded on the North by lands of Don Juan Tala, on the South by Lands which are vacant: on the East by the lands of Don Joseph Reynes, and on the West by lands claimed by Guillermo Stewart & those conceded to Don Francisco Miranda & Luis Delatt, all of which are clearly and distinctly shewn in the plans which precede, in which plans each Tract is represented by itself, also the dimensions of the Boundaries in lineal Perches, the direction of said Boundaries by the Compass, the declination of which is N. E. the trees and mounds which serve of Land marks & other natural and artificial limits.

Those Thirty two thousand & twenty five Arpents are part of the Forty thousand Arpents which the party in Interest desired to purchase from the Royal Treasury and which the Intendant General did order to be measured & valued by a Decree of 28 September [illegible] appears from the order delivered [illegible] [illegible] Colonel of the Royal Army, Civil & Mili[illegible]overnor of this [illegible] and Subdelegate of the Royal Treasury, [illegible] those for which Don Samuel Fulton the agent of the party in Interest requested that the necessary papers should be delivered to him in order to obtain a Title in due form, during the. time necessary to survey and define the boundaries of the seven thousand nine hundred & twenty five arpents which would complete the Forty Thousand Arpents—and the said Governor and Sub Delegate having appointed as experienced appraisers in behalf of the Royal Treasury, Don Pedro Allain & Don F. Bernardo Dumontier, and the agent of the party in Interest having appointed on his side, Don Philip Hicky & Don Bernardo Dubroca, and said Don Philipe having absented himself, his father Don Manuel Hicky was appointed in his place all said persons assisted by two witnesses Luis Delatt and Juan Poirett proceeded to the valuation of the Land in the following manner.

The twenty-two thousand five hundred and fifty-five arpents contained in the plans No. 1 to 9, inclusive were valued at the rate of ten cents each superficial arpent, and the eleven thousand seven hundred and seventy arpents in plans No. 10 to 11, at the rate of nine cents by superficial arpents, making in all the sum of three thousand and eighty-four dollars, six bits and a half which valuation being shown to the agent of the party in interest, Don Samuel Fulton, it was approved by him, receiving said lands as purchased, acknowledging the delivery thereof to his satisfaction and with the appraisers and witnesses he signed these presents, in Baton Rouge on the fifteenth day of March eighteen hundred and four. Note—In the proceedings or return of survey of the tract of twelve thousand one hundred and eight arpents, of Don Carlos Ramos, said tract is represented to be bounded on the north by lands occupied by Patricio Forbes, and speaking of tract No. 4 it is represented bounded on the same side (north) by lands occupied also by Patricio Forbes, the reason is, that in first instance Forbes solicited a grant of land as far as these, & finding afterwards that this quantity was larger than his family had a right to he reduced the demand which he had made.

Vincente Sebastian Pintado, Samuel Fulton, Philip Hicky, Bernardo Dubroca,F. Bernard Dumontier, P. Allain, Juan Porett, Luis Delatt.

Don Vincent Sebastian Pintado Surveyor General of Western Florida.

I certify that the plans, returns of survey and the appraisement abovementioned are true copies of the original documents appertaining to the case, that they are registered in Book VI of Surveys from folio 8 to 14 inclusive & in conformity to a decree of his Excellency Don Juan Ventura Morales, Intendant General pro temp. of this Province and Sub delegate of the Sup. Intendency General of the [illegible] month, I give this copy to be [illegible] to the reg[illegible]

In the place of Pensacola on the ninth day of the month of [illegible] eighteen hundred & six.

VINCENT SEBASTIAN PINTADO.

I, Don Juan Ventura Morales Intendant pro. temp. and Sup. Delegate General of the Province of West Florida, Judge taking cognizance of Maritime arrivals of Royal possessions, &c. &c.

Whereas, Don Juan Lind has presented himself before this Itendency on the 26th day of September eighteen hundred & three asking to purchase at a just valuation forty thousand arpents of royal lands which he offers to pay, one third in cash, one third in six months and the other third in one year from the day that the title of property will be given to him, giving the necessary securities to the Royal Treasury, and said application being granted, it was ordered in consequence that there should be inserted by the Secretary a certified copy of the official letter of the twenty-second day of July of the same year, addressed by this Intendency to the commissioners appointed for the transfer of the Province of Louisiana on the subject of the petition presented by Thos. Urquhart for the purchase of fifty thousand arpents of land, and of the answer which was made, on the twenty-eighth day of the same month of July by the said commissioners, which being submitted to the *Señor fiscal* of the Royal Treasury he declared himself in favor of said application specifying the conditions which appeared to him necessary for the security of the Royal Treasury. It was further ordered that a copy be inserted of the opinion given by his Excelly. the Lieutenant Governor, and Auditor of War, under date of the ninth day of August, in relation to the said application of Don Thomas Urquhart, and by a decree of the twenty-eighth day of said month of September. It was ordered that an order be given respecting the measurement survey and valuation of the forty thousand arpents of land to be taken from those which are vacant in the post of Baton Rouge, and that the same should be surveyed and appraised, which order was given on the first day of October of the said year, and executed by the Colonel Don Carlos de Grand-Pré, commandant and Sub-Delegate of the General Intendency, from the seventh to the ninth day of November of the aforesaid year; proceeding with the Aid Surveyor Don Vincente Sebastian Pintado, Captain of Cavalry of Militias and then acting as General Surveyor of this Province, to make the survey and mark the boundaries of only thirty-two thousand and twenty-five superficial arpents of land in the following manner.

Three Tracts of land in the Plan No. 1748, the first bearing No. 1 measuring Three thousand four Hundred and four arpents, on the West bank of the River St. Helena or Amite, at twenty-one miles [illegible] third South of the boundary [illegible] Majesty (whom may God preserve) and the [illegible], bounded North by the lands of Don Juan Delasize; South by the lands of said Lind (Tract No. 2). West by the lands of Don Armando Duplantier, and East by the aforesaid River St. Helena or Amite. The second tract being No. 2, on the same Amite or St. Helena, measuring five thousand four hundred and thirty arpent, and at about twenty-three miles and a half South of the aforesaid boundary line which lot is bounded North by the lands of the aforesaid Lind (Tract No. 1). South by other lands of Don Armando Duplantier, West by other lands of the aforesaid Lind; (Tract No. 3) and East by the aforesaid River St. Helena or Amite, the third lot bearing No. 3, and measuring Three thousand seven hundred and eighty arpents, on the East bank of the Rivulet St. Rosalie, alias *Sandy Creek*, and at the same distance of the aforesaid boundary line as the previous Tract No. 2, which lot is bounded North by the lands of the aforesaid Armando Duplantier, South by other lands of said Duplantier and of Christoval De Armas, East by other lands of said Lind (Tract No. 2) and West by the said Rivulet of St. Rosalie or "*Sandy Creek*."

Two Tracts of land in Plan No. 1749, one bearing No. 4 measuring Three hundred and ten arpents on the West Bank of the above mentioned Rivulet St. Rosalie or "Sandy Creek," at a distance of one mile and a quarter, of its junction with the River Amit, bounded North by the lands occupied by Patricio Forbes, South by lands of Don Carlos Ramos; West by Royal lands, and East it is terminated by the above mentioned Rivulet, "*Sandy Creek*" or St. Rosalie, the other lot bearing No. 5 and measuring one thousand and thirty-five arpents on the West bank of the River St. Helena, or Amite, at thirty-two miles South of the division line, bounded on the upper part by lands occupied by Don Edouardo Ross, on the lower part by lands of Nehemiah Power: in the depth by Royal Lands, and in front by the bank of the aforesaid River Amite or St. Helena, one tract of Land No. 1750, of five thousand four hundred and seventy arpents, bearing No. 6, on the West bank of the River Comite, at twelve miles and three-fourths of the line which divides the Dominions of the King from the American Territory, which tract is bounded North by lands surveyed for Don Manuel Garcia and Don Juan Delasize, South by lands measured in favor of Don Christoval de Armas; East by the aforesaid River Comite, and West by Royal Lands.

Three Tracts of Land in plan No 1751. One bearing No. 7 and measuring two thousand three hundred and seventy arpents, in the District of Feliciana, on the west bank of the Rivulet Red Wood (*Bosque Roxo*) at four and a half miles East of the River Feliciana at thirteen miles North East, one fourth North of its junction with the Mississippi, bounded on the North North East side by another lot belonging to the party in interest No. 8, south south west by lands belonging to Juan Baptista Labatut, and others, surveyed for [illegible] west by lands belonging to [illegible] Foster [illegible] lands of Don José Bernardo de Heins [illegible] east north east, it terminates at the aforesaid Rivulet Red Wood, (*Bosque Roxo*).

One tract of land bearing No. 8, and measuring eight hundred & thirty-six arpents, situated in the same District; and on the west bank of the Rivulet Red Wood (*Bosque Roxo*), bounded south south west by the aforesaid tract 7 &c. &c. by lands of Don Santiozo Foster, north north east by another lot No. 9 of the party in interest, west north west by Royal Lands, and east north east by the said Rivulet Red Wood (*Bosque Roxo*).

One tract of land, designated in the plan by No. 9, and measuring six hundred and twenty arpents in the aforesaid district, and west bank of the rivulet Red Wood (*Bosque Roxo*), four miles east of the river Feliciana, and sixteen miles north east, one fourth north of its junction with the Mississippi river, bounded south south west by lands of the party in interest (No. 8), north north west by lands of Francisco Miranda, west by Royal lands, and east by the said rivulet Red Wood (*Bosque Roxo*) two tracts of land comprised in the plan No. 1752, one bearing No. 10 and measuring eleven thousand, and one hundred arpents, in the said District of New Feliciana on the west bank of the east branch of the river of the same name, at four miles & a fourth. South of the thirty first degree of the limits dividing the domains of the king from the American territory, bounded north by lands belonging to Don Manuel de Lanzos, south by lands of Santiago Richardson, vacant lands, (*Arroyo de los Castores*) "Beavers' Creek" and lands of Don Juan Tala east by lands of Don José Reynes, and other lands claimed by Guillilmo Stuart, west by land of Isabel McFarland, and the aforesaid east branch of the river Feliciana, and in the center by the lands of Don Isaac and Don Juan Johnson, Don Pedro Marigny and Don David Lesuire.

It is well to remark that the eleven thousand and one hundred superficial arpents are to be found comprised in the figurative plans, between, the straight and curb lines marked in red, exclusive of three hundred arpents previously measured in the vicinity of the point A. of said plan, in favor of Domingo Lorero, now deceased: the other tract is contained in the same plan, No. 1752, measuring, six hundred and seventy arpents in the above mentioned district of New Feliciana, at six miles and three quarters of the river bearing the same name, and at six miles and three fourths south of the parallel of thirty one degrees bounded north by lands of Juan Tala: south by others vacant, east by lands of José Reynes, and west by those claimed by Guillilmo Stewart, and those granted to Francisco Miranda and to Louis Delatt; the said thirty two thousand and twenty five arpents which are comprised in the eleven tracts of land in the five figurative plans, drawn by the present surveyor general Dn. Vincente Sebastian Pintado, were appraised after the necessary explanations by experts, Don Pedro Allain, & Don Felix Bernardo [illegible] appointed on behalf of the [illegible] Hicky, and Don Bernardo Dubroca, [illegible] the party in interest, assisted by the surveyor, Don Samuel Fulton, as attorney in fact of Don Juan Lynd, and of two judicial witnesses in the absence of a notary, at the price of ten cents per superficial arpent, for the twenty thousand two hundred and fifty five arpents contained in the figurative plans, numbered from one to nine; and nine cents per arpent, for the eleven thousand seven hundred and seventy arpents contained in the numbers ten and eleven which valuation was agreed to, by the attorney in fact, for Don Juan Lynd, who did receive in consequence of said proceedings said lands as purchased to his entire satisfaction, and did sign the proceedings or operations of survey, with the appraisers, the surveyor, and the witnesses. To remove all difficulties respecting tract No. 4, which is represented to be bounded by the lands of Patricio Forbes, it is proper to state that said tract is so put down, because Forbes claimed as far as these, but this being a larger quantity than his family had a right to, he abandoned the claim he had set forth, as explained by the note, of the surveyor and appraisers; and the aforesaid five plans and returns, of survey, and appraisement, being annexed to the proceedings and presented by the party in interest were submitted to the *señor fiscal* of the Royal Treasury on the 27th April 1804, and he ordered on the 30th of the same month that there should be made, by the officers of the Royal Treasury, a calculation of the appraisement of said lands which he considered disposed of. By a decree of the thirty first of April eighteen hundred and four, and of the second day of May following, he ordered that the surveyor general, Don Carlos Trudeau, should examine the operations of Vincent Pintado, and if they were found correct to furnish the duplicates of the plans to be annexed to the title, which was not done until the twenty fifth of April of the present year, when the aforesaid Juan Lind presented himself representing that in consequence of his excellency the commandant of this place having not only opposed himself to the concessions of lands, but also to recognize the authority of this intendency, within the territory under his command, that all affairs had remained pending, but having ascertained that things had been restored to their ancient order, he now applied praying, that in consideration of the large expenses and disbursements made by him, for having the limits marked, and the survey of the lands made, that the payment of their value be received, and that he should be furnished with the titles, made in due form, and having united all the proceedings in virtue of a decree of the third of June; they were transmitted to the surveyor general, Don Vincent Pintado, in order that he should complete what his predecessor, Don Carlos Trudeau had commenced, which he did perform, annexing a copy of the plans and returns of survey and appraisement, and registered the whole in book VI from page 8 to page 14 inclusive, and furnished on the third of June last, an act which reads as follows; to

[illegible]
wit: In [illegible] Juan Lind having solicited [illegible] time the [illegible] sale of forty thousand arpents of land [illegible] District of Baton Rouge, out of which, as it appears by the five plans annexed to this document, the limits were marked, and the survey made of only thirty two thousand and twenty five arpents, and the costs of which have been paid by said Lind, taking also in consideration that, not only by a royal order, dated May the twenty ninth, eighteen hundred and four, his majesty has approved of the sales of lands made in the District of Baton Rouge, but that also by another royal decision, dated February the twentieth last, he has removed all the obstacles which have been made to the sales of the royal lands by the commandant of this province, and he has ordered that the intendancy under my charge, should terminate the transactions which had been commenced and should admit all the petitions which might be presented on this subject, with a view of realizing for the royal treasury the utmost benefit which circumstances will allow. In consequence thereof, and the opinion expressed by the *Señor Fiscal* of the royal treasury, and the advice of the auditor, on this subject, it was resolved in an assembly of the royal treasury held on the twenty-first of the preceding month, that they should proceed to terminate all the transactions already commenced in relation to sales of lands, and that all new demands should be accepted, in order to comply entirely with the intention of his majesty and having also the approval given, by *Señor Fiscal* of the royal treasury, in his decree of the thirtieth of April eighteen hundred and four, relative to the appraisement made of the aforesaid thirty two thousand & twenty five surperficial arpents, surveyed in the eleven tracts of land described in the five plans. Therefore the thirty two thousand and twenty five arpents of land according to the boundaries marked on the aforesaid five plans drawn by the surveyor Don Vincente Sebastian Pintado, who is now surveyor general, are from this date granted to the said Juan Lind and the appraisements made then, by the sworn experts at the rate of ten cents per arpent, for the twenty thousand two hundred and fifty five arpents contained in the plans from one to nine, and at the rate of nine cents per arpent, for the eleven thousand seven hundred and twenty arpents contained in the plans No. 10 & 11, are approved and the proceedings sent to the officers of the royal treasury in order, that after calculation and payment of the amount, in the royal coffers of the royal treasury of Louisiana with the duty of half yearly tribute and the transportation of the same, to Spain, all of which is to be attested by the receipt of payment, a title of property be delivered and the calculations of the amount of the property having been made, by the officers of the royal treasury of this place, it appeared that the thirty two thousand and twenty five superficial arpents of land granted to said Juan Lind, amounted according to valuation to $3,175 & 6 *reales* and 17 maravedis, say

[illegible] thousand one hundred and seventy [illegible], and [illegible] maravedis, including in this amount the ninety one dollars for the royal duty of half yearly tribute, and eighteen per cent for the transportation of said half yearly tribute, to the kingdom of Castilla, according to the receipt of payment, which on the second instant the minister treasurer; of the the royal coffers gave to the Sub. Lieutenant of the Regiment of Louisiana Don Francisco Dalcour, the agent and substitute of Don Juan Lind, as shown by the power of attorney, méntioned in said proceedings; therefore in virtue of the power which I hold by my office, and in the name of the king (whom may God preserve) I, grant to the aforesaid Juan Lind under the title of sale from the royal treasury, said thirty two thousand and twenty five superficial arpents of royal lands in said places, and according to the boundaries directions, and the distances mentioned in the five figurative plans and returns of survey. Certified by the surveyor general Don Vincente Sebastian Pintado, duplicates of which will for evidence thereof be annexed, and registered with this title; consequently, I, impart to him clear and entire ownership over said thirty two thousand and twenty five superficial arpents of land so that as his own property, he may possess, dispose, alienate, them at his pleasure; having bought and paid for them to the royal treasury; and I, do authorize him to take possession, of said land in which possession I, hereby place him, without, prejudice to any third party who might have a better right, under the conditions, that he will observe, and comply with the laws and regulations made and published by the General Intendancy of the retroceded Province of Louisiana; dated the seventeenth of July, seventeen hundred and ninety nine, of which laws and regulations he will inform himself in order to observe and comply with them: In faith of which I have given these presents; signed by me, sealed with my arms, and countersigned by the secretary pro temp. of the general intendancy in which office as well as in the office of the royal treasury of this place, this title will be registered.

Given in Pensacola on the twelfth day of July eighteen hundred and six.

(Signed) JUAN VENTURA MORALES,
FRANCISCO GUTIERREZ ARROYO.

The above title has been registered in folio 102 to 109 inclusive, of the book kept for that purpose, now under my charge, and to which I refer.

(Signed) FRANCISCO GUTIERREZ DE ARROYO.

Pensacola twenty first July eighteen hundred and six.

The above title has been registered (en la Contaduria, Pral. de [illegible]) in the Office of the Principal [illegible] the Army [illegible]ance in fol. 60.

(Signed) JUAN FRANCISCO ARMAND DE COURVILLE.

Pensacola fourteenth of August eighteen hundred and six.

Second: Depositions of Isidor Labatut, Evarisse Blanc and Bernard Marigny; which are in the words and figures following, viz:

THE HEIRS OF JOHN LYND.
vs.
THE UNITED STATES.

According to notices duly issued to the District Attorney of the U. States & by virtue of subpœnas served upon certain witnesses for the plaintiffs in the above entitled cause.

On this the 13th day of April 1847 the plaintiffs represented by their counsel W. W. King Esquire, and the defendants by Thomas J. Durant U. States District Attorney appeared before me the undersigned commissioner, who proceeded to take the testimony of the several witnesses who appeared.

Isidor Labatut, witness on behalf of the plaintiffs being duly sworn states that he was acquainted with John Lynd the deceased, that he has been dead about twenty-five years as well as witness recollects.—Deponent knew him very well; he knows the heirs of said Lynd—there were four children, three boys and one girl; the boys named Robert, Henry, and William, and the girl named Rosa now the wife of R. C. Cammack. Deponent was sometimes the family physician, and he visited them as an intimate acquaintance.

"*Cross-examined.*

"He knows nothing whatever of the present suit, except having heard that the family had a claim for land.

(Signed) IRE. LABATUT.

E. Blanc witness for the plaintiffs being duly sworn states that he knew the late John Lynd the deceased; he was a brother-in-law of the deponent having married his sister John Lynd died about twenty-six years ago: he knows the heirs of the said Lynd: these names were Robert Lynd, Henry Lynd, William Lynd, and Rosa Lynd, now the wife of R. C. Cammack. John Lynd lived & died in New Orleans: deponent came to New Orleans five or six years after Mr. Lynd's marriage, and was in New Orleans at the time he died: witness was very intimate with the family of Mr. Lynd he was one of the ex'ors of the said John Lynd.

Witness being shown the document marked A, filed on the 16th of June 1846, states that he found it among the papers of Mr. Lynd deceased, and he witness had the same in his possession for many [illegible] and that he paid taxes for several [illegible] which the said document was the evidence [illegible] was in the city at the time that Mr. Lynd purchased the land in question that he often heard Mr. Lynd speak of it, who considered that he had made a great bargain. Witness never endeavored to get patents for the said land from the government of the U. States.

"*Cross-examined.*"

States that he paid the taxes mentioned to the State of Louisiana since the death of Lynd; that some six or seven years more or less after the death of Lynd he handed over the aforesaid Document of Title to the family of Lynd, and that he has never had them since.

(Signed) EVARISSE BLANC.

Bernard Marigny, witness for petitioners being duly sworn states that he has known John Lynd deceased ever since the beginning of the government of the U. States and also during the time of the Spanish government: s'd Lynd married a sister of deponent's wife: that was his first marriage: he always lived in New Orleans. Witness was acquainted with Morales: he was the father of deponent's wife, states that he is perfectly acquainted with Morales' signature having often seen him write.

Witness being shown the signature of Morales in document A already referred to states that he recognizes thereto the said signature as being the true and proper signature of said Morales; in his handwriting: Morales held the office of Intendent under the Spanish government. Witness also recognizes in said document the signature of Francisco Gutierrez de Arroyo, as being the true and genuine handwriting of the said De Arroyo: that the said De Arroyo was the secretary of the intendent and kept the records. Witness was also acquainted with the signature of Juan Francisco Armand de Courville, and being shown the said signature in the said document A, recognizes it to be the proper signature and handwriting of the said De Courville: that the said De Courville was the Contador of the Intendancy in Pensacola, where Morales was intendant, after the said Morales left the intendancy of Louisiana.

Witness has seen many titles similar to that of document A, and he recognizes that to be in the same form as the others which he has seen.

Cross-Examined.

States that the stepdaughter of Morales was the first wife of John Lynd; which lady died about the end of the Spanish or the beginning of the American government: Morales was intendant of Louisiana at the time of the cession and was so for many years previous. Morales continued to reside in New Orleans after the cession to bring the affairs of the government to a close, and continued in New Orleans [illegible] Deponent states that Morales sold [illegible] quantities of [illegible] at auction in the year 1808, he is not [illegible]tain whether it was before or after the cession, but that will appear from the titles. The Spaniards were at that time in possession of Baton Rouge, and of Florida.

Examination in Chief Resumed.

Deponent being asked whether he was acquainted with the handwriting of Don Vincente Sebastian Pintado, and being shown the signature of said Pintado in said document A. states that he recognizes it to be the genuine handwriting and signature of said Pintado: that he knew Pintado intimately: Pintado was the Deputy Surveyor of Louisiana during the life of Laveau Trudeau, and after resignation of said Trudeau he was the surveyor in Florida.

(Signed) BERNARD MARIGNY.

Evariste Blanc being recalled states that he knew John Lind died during the time of the Spanish government: deponent went to the north to learn the English language, and when he returned to New Orleans, Mr. Lynd was married to one of deponent's sisters.

(Signed) EVARISTE BLANC.

Etienne Mazureau, witness for plaintiffs being duly sworn states that he is well acquainted with the handwriting of Juan Ventura Morales, and well acquainted with him personally: and being shown the signature of said Morales in document A, says that he recognizes it to be the handwriting, and genuine signature of said Morales: Morales was the intendent of the Province of Louisiana and Florida, they both being under one government before the cession of Louisiana, after the cession of Louisiana he continued to be the intendent of Florida.

Witness also knew Arroyo personally, and is well acquainted with his signature, and he recognizes his signature attached to said document A. to be the genuine handwriting and signature of said Arroyo. Arroyo was the minister of the "Real Hacienda," or the Royal Domain.

Up to the time of West Florida being taken into the possession of the United States which witness believes was in the year 1811, the Spanish government exercised sovereignty over it; that a short time before the United States took possession of West Florida, the Spanish authority had been overthrown by domestic revolutions.

Deponent is familiar with the form and manner of granting Spanish titles, and states that the title of Document A is in the usual form of such titles, but not in the form of gratuitous grants as were in use before Morales was Intendant; or before he was vested with the power of granting lands.

Cross-Examination.

Deponent arrived in Louisiana on the 5th of March 1804, and has resided in said State ever since: very soon after his arrival he became acquainted with Juan Ventura Morales; Morales was the Intendant of Louisiana at the time of the cession: Morales continued to reside in New Orleans a pretty long time after the cession.

The Spanish garrison also remained in New Orleans being about fifteen hundred strong, and it was called the Regiment of Louisiana, they occupied barracks at the corner of Toulouse and Chartres streets all the Spanish officers remained here as well as Morales. Witness never heard of Morales making sales of public lands at auction—at that time the Marquis of Caracaloa was also in New Orleans; he had been Military Governor of Louisiana under the Spanish authority, and one of the commissioners under the cession.

Deponent states that he thinks it was in the year 1805, when Morales left New Orleans.

(Signed) MAZUREAU.

I, N. R. Jennings commissioner duly appointed to take evidence in land causes do certify Isidore Labatut, Evariste Blanc, Bernard Marigny, and Etienne Mazureau appeared before me and being duly sworn made the foregoing depositions to which they severally subscribed their names in my presence.

In witness whereof I hereunto affix my hand and seal this 13th day of April A. D. 1847.

(Signed) N. R. JENNINGS,
U. S. Commissioner.

Nota—The foregoing depositions are thus endorsed:

U. S. Dist: Court. "Offered in evidence and filed April 21, 1847, N. R. Jennings, Clerk." "Offered on hearing of "Issues" before jury and admitted, May 31st 1849.

ROBERT M. LUSHER,
Deputy Clerk."

Third:—The following memorandum of documents referred to viz:

"Treaty of 30 April 1803 between the U. States and France Whites. Recop; vol 2 p. 196.

"Treaty of cession from France to Spain 3d Nov: 1762 W. Recop: vol: 2 p. 531.

"Treaty from France to England 3d Nov: 1762. W. Re: 2 p. 533.

"Treaty between England and Spain 10 February 1763 W. R. 2 p 291.

"Proclamation of the King of England W. R. 2, p. 293.

"Treaty between G. Britain and Spain Sepr. 3d 1783.

Laws instructions &c upon public lands V. D, p. 742.

"Treaty between the U. States and Spain of 20 of Oct: [illegible] W. R. 2 p 190.

"Letter of L. Abadie 1 Laws U. S. p 442.

"Document signed Mignet prepared for Mr. White W. R 2 p 508. This document contains extracts from the papers filed in the archives of Paris.

"The Proclamation of Casa Caloa and Lalieto upon the receipt of the orders of delivery. W. R. 2. p. 193.

"The act of delivery from Spain to France W. R. 2. p. 134.

"Letter of Mr. Talleyrand to Mr. Monroe, W. R. 2 p. 579.

"Protest of Casacalvo March 31st 1804 W. R. 2. p. 546–7.

"Martin's Hist: of Louisiana vol 2. p. 246. 7. 8.

"Treaty of 1819 between the U. S & Spain W. R. 2 p. 208.

"American purchases vol: 12 p. 15 to 81, 137 to 280.

"Letter of Pizarro to Mr. Irving August 17th 1817. W. R. p. 524.

"Letter of Mr. Pinckney to Cevallos Feby. 17, 1803. W. R. p. 544.

"Letter of Monroe to the French Government 18 May, 1803, W. R. p. 514.

"Refusal of Spain to sell the Floridas to Pinckney April 7, 1802, W. R. 2 p. 543.

"Answers to Quenis by Mr. Jefferson 1803, W. R. p. 691.

"Report of Pintado Decr. 9, 1822, & additional report of 20th of August 1824, W. Recor. vol. 11, p. 338 to 363.

"Order of the King of Spain approving sales made the order dated 29 May 1804—& the order dated 20th of Feby. 1805 requesting Morales to sell all he could. W. R. 2 p. 346.

"The proclamation of President Madison on taking possession of W. Florida, 2 Martin's Histy. of Louisiana p. 296. 7, 8.

"Report of J. O. Cosby on Land Claims in Florida. A state papers vol. 18, p. 39 to 67.

"Regulations of Morales for the disposition of the Public Lands American State Papers vol. 18, p. 488 to 491. White's Recor. 2 p. 240.

"Martin's Hist. of Louisiana vol. 2 from p. 193 to 199.

"Cession of Florida in 1763 by France to G. Britain (ascribes the country ceded as the country east of Mississippi River) 1 American State Papers p. 30.

"A list of the documents treaties and historical works referred to by counsel for the plff. as historical evidence in this case.

Nota—The foregoing is thus endorsed:

"Filed on the trial, April 21, 1847.

"N. R. JENNINGS,
"*Clerk.*"

—The following "affidavit of R. C. [illegible]

Filed April 21, 1847.

Heirs of John Lynd
vs.
The United States & others. } U. S. D. C.

Robert C. Cammack being duly sworn states that he is the husband of Rosa Lynd, one of the heirs—states that he has had the original titles to John Lynd filed in this case, in possession for about fourteen years for the purpose of endeavoring to obtain the lands therein granted for the heirs one of whom was his wife. That the papers annexed to the original title & filed with it in court are all the papers relative to said grant of land he has in his possession or ever had. That if John Lynd ever had any other papers in relation to said grant, the same have long since been lost or mislaid.

That affiant has used all the means in his power to procure all the evidences of the title. That it has not been in his power to get the Records of the Spanish Government, or the documents deposited in the archives of said government upon the subject of the said grant of land because as he has always been informed & believes that the said records and documents were taken out of the county by the Spanish officers and that they have most of them been lost or stolen from the archives of that government. That it would be impossible for him to get the warrants & orders preceding the said survey.

(Signed) R. C. CAMMACK.

Sworn to and subscribed before me this 21st day of April A. D. 1847.

(Signed) N. R. JENNING,
Clerk.

Close of Evidence offered on the 21 *April*, 1847.

And afterwards at the May Term, A. D. 1847, to wit: on Friday, June 11th, 1847, was delivered, rendered, and filed, the following opinion and judgment of the court, viz:

The Heirs of John Lynd
vs.
The United States.

Opinion of the Court.

This suit is brought under the act of 1824 revived by that of 1844.

The grant upon which the action is brought cannot be confirmed by this court under the provisions of these acts.

I have repeatedly decided in various cases under the act authorizing these suits, that the courts, to which these grants are to be submitted, have no powers except such as have been [illegible] the act itself. Nothing can be plainer than this proposition. Otherwise, they could have gene on, without authority from Congress, to adjudicate upon the grants. This it is notorious they have refused to do, except so far as to say that all grants made by Spain prior to the date of the treaty of St. Ildefonso (1800), were not valid against the United States. They have it is true, said that grants made, while Spain was sovereign *de facto*, of the country between the Mississippi and Perdido, were not absolutely void and not beyond the control of Congress; but they have not said that the courts, without the aid of Congress, could declare them valid against the United States. On the contrary, they, as the judicial authority following the action of Congress, have specifically declared that there is an intrinsic defect in the titles, and that they could not do otherwise than decide against them.

The act of 1824 expressly limits the action of the courts to grants made prior to the 10th of March, 1804. The grant before the conrt was made in 1806.

But it is said that the *order of survey* was made before the 10th of Maroh 1804. If this were so, the court could doubtless proceed to take jurisdiction and decide upon its validity according to the rules laid down in the act of Congress. But how does this fact appear? The *order of survey* itself is not introduced in evidence, and there is no legal proof that it ever existed. The title made out by Morales in 1806, and the certificate of Pintado shew that an order of survey had issued; but the insurmountable difficulty which the court is compelled to encounter in considering this recital and certificate is, that they were made or given by persons at a period when they could have no official character in the eye of the court. They were, so far as the powers of this court extend under the law, entirely *functi officio;* and their acts have no legal validity whatever; the court has no authority to recognize an act performed either by Morales or Pintado, as evidence of anything, for the manifest reason that I cannot go beyond the 10th of March, 1804. If I can disregard this limitation for one purpose, I can disregard it for all, and proceed, without restriction, to decide upon the validity of all grants made by Spain as late as 1810, when, in point of fact, the territory between the Mississippi and Perdido was first taken possession of by the United States, in accordance with the proclamation of President Madison.

The extension of the provisions of the old Missouri act of 1824, with the limitation of the action of the courts to the 10th of March, 1804, to the territory between the Mississippi and Perdido, is an awkward piece of legislation which, to one at all acquainted with the history of the delivery of the different portions of Louisiana to the United States, carries injustice upon its very face. The limitation in the act, when confined to Missouri, is perfectly just; but, when we reflect that the territory between the Mississippi and Per-

[illegible] never finally taken [illegible] until [illegible], and that up to that time Spain remained in possession and in the exercise of all the powers of a sovereign *de facto*, it is certainly not equal justice to authorize a claimant under a grant bearing date in 1804, to present his title to the court for confirmation, while the claimant under a grant bearing date in 1806 is positively debarred the exercise of the same privilege. But, while I have taken the liberty to make a suggestion which the equity of the case so loudly calls for, it is certainly not the province of the court to dictate the legislation of Congress. The limitation in the act of 1804, when applied to the territory where the grant in question is situated, is an important omission, but it is an omission which this court has no power to supply.

The learned counsel for the plaintiffs has relied upon the principles of the laws of nations establishing the powers of a sovereign *de facto*, as furnishing a rule under the provisions of the act of 1824, by which the title of his clients may be sustained; and the opinion of this court, in the case of Reynes *vs.* the United States, is relied upon to support the position.

To this the answer is plain. The principles of the laws of nations applied in the case of Reynes, were so applied to a grant which was clearly *within the purview of the law*, and over which the court was bound to exercise jurisdiction. But I certainly have no power to apply them to grants beyond the pale of the law and excluded by the very limitations of the law. This would be acting not under and in accordance with the law, but beyond the law; and upon the same principle the Supreme Court of the United States, in the cases of Foster & Elam *vs.* Neilson (2 Peters), and Garcia *vs.* Lee (12 Peters), might have decided in favor of the grantees under Spain.

It is therefore ordered, adjudged, and decreed that the petition in this case be dismissed, and that there be judgment for the United States, with costs.

Whereupon, was forthwith entered of record on the minutes of the court the following

Decree.

Heirs of John Lynd vs. The United States. } May Term, 1847.

Friday, June 11th, 1847.

The cause thus entitled having been submitted to the court on the 21st of April last, the judgment thereon was this day given.

And for reasons set forth and on file, it is ordered, adjudged and decreed that the petition in this case be dismissed, and that there be judgment for the United States with costs.

And be it further remembered that afterwards, at the same May

Term, [illegible] of the said court, to wit: on the twenty [illegible] of June of said year the plaintiffs came by their attorneys into [illegible] and deposited the following

Petition for a Re-hearing.

To the Hon. T. H. McCaleb, Judge of the District Court of the United States, for the Eastern District of Louisiana.

The petition of Henry J. Lynd, Robert S. Lynd, William C. Lynd & Rosè Lynd wife of Robert C. Cammack respectfully represent that in the decree lately pronounced by this Hon. Court, in their suit against the United States & others, they are advised & believe there was error in deciding that there was no legal proof of the existence of the order of survey on which the title of the petitioners was founded, prior to the 10th of March 1804.

Petitioners allege that the rejection of the evidence introduced by them to prove the existence of said order on the 28th of September 1803 & of the survey made in conformity therewith on the 9th of November 1803 took them by surprise.—They had no reason to believe that any objection would be made to the evidence until the trial of the cause & had no expectation that any other or better evidence would be required of them until the decision of the cause was rendered by the court.

They allege that if they had not thus been taken by surprise, or had anticipated that other proof would have been required of them, they could have furnished such evidence of the existence of the order of survey at the date alleged in their original petition & that the survey was actually made at the date alleged, & that all the other proceedings were had in the matter of their title to the tracts of land described in their original petition, in the manner & form therein set forth, & as stated in the title given to their ancestor by Morales, by such evidence as would have been satisfactory to the court.

With this evidence before the court they believe the result would have been different, & the decree of the court in their favor.

They allege they were deprived of the opportunity of supplying the deficiency in their evidence caused by the rejection of their proof, owing to the fact of the objection not having been made before the trial & the question of its rejection or reception not having been disposed of until the final decision of the cause.

Petitioners allege that since the trial of the case, they have discovered evidence which will establish the existence of the order of survey & the survey in 1803.

That they are informed & believe that Philip Hicky a witness living in this district will prove that the order of survey was issued & the land surveyed and appraised in 1803—& that the appraisement was accepted by the father of petitioners in the same year.

Petitioners allege they were informed of this evidence subsequent to the trial of the cause.

They further allege they have discovered [illegible] of Carlos Trudeau annexed to copies of the survey of the said lands, certifying that the report of the said survey & the plans annexed were copied at that date, to wit on the 18th of June 1804 from the records of the Spanish government. The said Trudeau being at that date the duly authorized officer of the Spanish government, and his certificate as such being entitled to full faith & credit. The said certificate & documents annexed being full proof that the said survey was made and the report thereof made and recorded in the proper records of the Spanish government prior to the 18th of June 1804.

Petitioners further allege that since the trial they have received information which leads them to believe that the original order of survey may be found at Havana in the island of Cuba. That since the decision of the case there has not been time sufficient to enable them to have the records of the grants of land titles in Florida, which were carried to Havana from Pensacola when the Spanish authorities left this country.

They expect by searching those records to be able to find the original order of survey or authentic evidence of it.

Wherefore your petitioners pray on account of the foregoing allegations & the affidavit of R. C. Cammack herewith filed that the cause be reheared before this hon. court, & that they be allowed an opportunity of introducing the important evidence they have discovered since the trial of the cause & that on account of the surprise under which they laboured from the rejection of their evidence that they be allowed to supply its deficiency by any other evidence pertinent to the issues in the case; and that such further or other order may be made in the premises as to this hon. court may seem meet.

And your petitioners will ever pray &c. &c.

(Signed) ELMORE & KING,
Solicitors for Compts.

We conceive these causes are proper to be reheard touching the matter mentioned in the petition if your honor shall think fit.

(Signed) ELMORE & KING,
Solicitors for Compts.

And together with the foregoing petition was filed the following

Affidavit of R. C. Cammack.

HEIRS OF JOHN LYND
vs.
UNITED STATES & OTHERS.
} U. S. D. C.

Robert C. Cammack being duly sworn states in consequence of his wife's interest & his relationship to the other claimants in the case of the *Heirs of John Lynd* vs. *The United States & others*, he has at their request attended principally to the prosecution of the claim for the land in controversy.

He states that he had no reason to believe that the court would reject the evidence of the order of survey, the survey the report thereon, the appraisement and the acceptance and other proceedings in relation to the said land. Had he been aware of the necessity of establishing those things by other proof, he believes he could have done so by evidence which would have been satisfactory to the court.

That since the trial of the case he has been informed and believes he can prove by Philip Hickey, Esq. that the order of survey was granted and the survey and appraisement were made prior to the year 1804.

That he was not aware either of the necessity or the existence of this evidence at the time of the trial.

He further states that since the trial he has discovered in the possession of Bringier who holds the office of
a certificate of Carlos Trudeau, who was surveyor general under the government of Spain of the Province of West Florida, and keeper of the records of all surveys made in that province,—certifying that he had copied from the records in his office the survey, the plans and the report of the surveyor and proceedings thereon of the claim of the petitioners' father, on the 18th of June 1804. That the said certificate is in the genuine handwriting of the said Trudeau and is annexed to an exact copy of the plans, and report filed in this case.

He further states that from information he has obtained since the trial he has reason to believe that the original order of survey or an authentic copy of it may be found in Havana and that if a rehearing of the case is granted he may be able to procure it by the time the case can be again tried.

(Signed) R. C. CAMMACK.

Sworn and subscribed before me this 23d June A. D. 1847.

(Signed) C. B. BEVERLY,
Justice.

Nota.—The foregoing affidavit is thus endorsed:

" Offered in evidence by plffs before jury, admitted, and filed May 31st 1849.

ROBR. M. LUSHER,
Dy. Clerk."

Whereupon at the said May Term to wit Friday June 25, 1847 was recorded on the minutes of the court the following

Order.

Heirs of John Lynd
vs.
The United States. } 120

Upon motion of Elmore & King of counsel for complainants in this cause and presenting a petition for a rehearing in the said cause, together with the affidavit of the plaintiffs, the court ordered the petition to be filed and notified the plaintiffs that argument thereon would be heard.

And afterwards, at the May Term, 1848, of the said court to wit: on Friday, May 19th 1848 was recorded on the minutes of the court the following

Motion to submit Certain Issues to a Jury—viz.

Heirs of John Lynd
vs.
The United States.

On motion of Elmore & King, of counsel for complainants, it is ordered by the court that the defendants shew cause, if any they have, on Thursday next, at 9 A. M. why the following issues of disputed facts in controversy in this case should not be tried by a jury according to the 2d section of the act of the 26th May 1824, enabling claimants of land within the State of Missouri and the Territory of Arkansas to try the validity of claims, &c. and the acts amending the same:

1st. Was there an order of survey issued by the duly authorized officers of the Spanish Government, directing the survey of thirty two thousand and twenty five arpents, or any other quantity of land in the district of Baton Rouge for John Lynd deceased, the father of the complainants, on or about the 26th day of September 1803?

2d. Were the surveys, figurative plans of which are annexed to complainants' bill, made under the said order?

3d. Was there a survey made under the proper authorities of the Spanish Government, of thirty two thousand and twenty five superficial arpents of land for said John Lynd in the months of October or November, or prior to the 20th of December 1803?

4th. Are the plans, and surveys of thirty two thousand and twenty five arpents of land and the report of Pintado, the surveyor, annexed to the complainants' bill, genuine documents made by the officers purporting to have executed them?

5th. Were the tracts of land, the figurative plans of the [illegible] of which are annexed to complainants' bill surveyed by Pintado at the time they purport to be, by the report, or at any time prior to the 10th of March 1804?

6th. Is the title annexed to complainants' bill and purporting to have emanated from Morales, genuine?

And it is further ordered, both parties consenting, that the following additional issue be submitted to a jury,

7th. Did the said John Lynd pay the Spanish Government for the said thirty two thousand and twenty five arpents of land?

Service of the above accepted.

(Signed) **THOMAS J. DURANT,**
U. S. Atty. Dist. La.

And further at the same term, on the 25th May 1848, was entered of record the following

Continuance.

HEIRS OF JOHN LYND
vs.
THE UNITED STATES.

The rule entered in this case on the 19th inst. was by consent of Counsel, continued until to-morrow morning at 9 o'clock.

And further at the same Term, on the 26th May 1848, was recorded the following

Submission of Issues.

HEIRS OF JOHN LYND
vs.
THE UNITED STATES.

The rule or motion to submit certain issues in this case to a jury came up to-day for hearing, the counsel on both sides being present; when after hearing argument, the court took the said motion under advisement, together with the original application made for a rehearing of the cause.

And thereupon, at the same term on the 29th day of May, A. D. 1848, was rendered by the court and recorded the following

[illegible]

Heirs of John Lynd
vs.
The United States.

Having maturely reconsidered the order of court of the 29th June, 1847, graning a re-hearing of this cause, and having had under advisement the "issues" proposed by the attorney for the plaintiffs, to be submitted to a jury.

The court this day re-affirmed said order of the 29th of June 1847, and also ordered that the following "issues" be submitted for trial to a jury, to wit:

First. "Whether there was or was not, an 'order' of survey issued "on or about the 26th day of September, 1803, by the duly author-"ized officers of the Spanish Government, directing the survey of "thirty-two thousand and twenty-five (32,025) arpents, or any other "quantity of land in the district of Baton Rouge, for John Lynd, de-"ceased, the father of the complainants.

Second. "Whether the surveys, figurative plans of which are "annexed to complainants' bill, were or were not made under the "said order.

Third. "Whether there was or was not, a survey made under the "proper authorities of the Spanish Government of thirty-two thou-"sand and twenty-five superficial arpents of land for the said John "Lynd, in the month of October or November, or prior to the 20th "of December 1803.

Fourth. "Whether the plans and surveys of thirty-two thousand "and twenty-five arpents of land and the report of Pintado, the "surveyor, annexed to the complainants' bill, are or are not, genuine "documents made by the officers purporting to have executed them.

Fifth. "Whether the tracts of land, the figurative plans of the "surveys of which are annexed to complainants' bill, were, or were "not, surveyed by Pintado, at the time at which, by the report, "they purport to have been surveyed, or at any time prior to the "10th of March 1804.

Sixth. "Whether the title annexed to complainants' bill, and pur-"porting to have emanated from Morales, is, or is not, genuine.

Seventh. "Whether the said John Lynd did, or did not, pay the "Spanish Government for the said thirty-two thousand and twenty-"five arpents of land."

And [illegible] 1849, of the [illegible] to wit: On the 30th of May last, the plaintiffs appeared by [illegible] attorney and—leave had—filed in the Clerk's Office the following

Amended Bill.

To the Hon. the Judge of the District Court of the United States for the Eastern District of Louisianh.

In the matter of the Heirs of John Lynd *vs.* The United States due permission have been first obtained from this Honorable Court to amend the original Bill of Complainants—they make the following allegation as an amendment to the original Bill to be considered as inserted in the said original Bill after the word Lynd in the eleventh line of the first page of the said Bill to wit: "Who was at the time a resident of Louisiana and continued to be so until the change of the Government to the United States, and for a long time thereafter."

(Signed) **ELMORE & KING,**
Solicitors for Compls.

And on the same day, viz: Wednesday May 30th 1849 was recorded on the Minutes of the Court the following

Motion and Order.

HEIRS OF JOHN LYND,
vs.
THE UNITED STATES.
} 120

On motion of Mess. Elmore and King of Counsel for Complainants, it is ordered, that a special venire issue to the Marshal to secure the attendance in Court to-morrow at 10 A. M. of twenty Jurors, to form a Jury for the trial of the issues of fact joined herein.

Whereupon, was forthwith issued from the Clerk's Office the following

Venire Facias.

The President of the United States of America, to the Marshal of the Eastern District of La. or to his lawful deputy. . . . Greeting:

You are hereby commanded to summon twenty four good and lawful persons to be and appear at the District Court of the United States of America for the Eastern District of Louisiana, to be holden at the City of New Orleans, in the District aforesaid, at ten o'clock, A. M., on the thirty first day of May in the year of our Lord one thousand eight hundred and forty nine to serve as special Petit Jurors for the May Session 1849, of the said Court.

Herein fail not on pain of the penalty that will fall thereon.

By order,
[SEAL.] (Signed) **ROBT. M. LUSHER,**
Dep. Clerk.

[illegible] B. Lee, J. B. [illegible], C. C. [illegible], Albert Nye, R. S. Fost, Theodule Montreuil, William A. [illegible], Wm. J. Dewey, James E. North, John A. Furnel, J. Whitney, R. F. Nichols, L. D. C. Wood, M. Judson, H. Delpit, Jules David, J. B. Hoatte, J. E. Jolly, Nicholas Barrois, Robert Hall, J. O. Nixon, P. Longis.

Whereon was duly made the following

Marshal's Return.

Recd. May 30th 1849 and on the 31st May '49 this venire returned into Court after the within named twenty four persons being summoned according to law. (Vide folio 85.)

(Signed) CHAS. A. LABUZAN,
Dep. Marshal.

And thereafter at the same May Term 1849—to wit: Thursday May 31st 1849 was recorded on the minutes of the Court, the following

Opening of the trial of "Issues."

This being the day fixed for the hearing before a Jury of the seven "issues of fact" ordered to be so tried, on the 29th of May, 1848, the following named jurors were empanelled and sworn to try the same, viz.—L. Dufilho, F. Fabre, P. D. Henri, J. Kelso, L. Arnoult, T. B. Lee, T. B. Hearth, R. S. Yost, John A. Turnell, Jules David, J. B. Hoatte, and J. E. Jolly. W. W. King, esq. appearing on behalf of the plaintiffs, and Thos. J. Durant, esq. with the U. S. Dist. Attorney, for the defendants. Evidence was offered and the admissibility thereof argued at length; when, at a late hour, the Court adjourned the further hearing until to-morrow morning at 10 A. M.

And be it known that the documents this day offered or proposed to be offered by the plaintiffs as evidence before the jury are the following, viz:

Firstly.—The testimony of Evariste Blanc, taken April 13th, 1847; offered to prove cultivation and payment of taxes; objected to & objections argued and overruled and the deposition admitted (which see on page 59 of this transcript:)

Whereupon was tendered, signed, and filed the following

HEIRS OF JOHN LYND
vs.
THE UNITED STATES.

Before the Honorable Theodore H. McCaleb, Judge of the District Court for the Eastern District of Louisiana, May Term 1849.

Be it remembered that on this thirty-first day of May 1849, on the trial before the court and jury of the issues made out of Chancery, the counsel of petitioners offered to read in evidence to the jury the testimony of E. Blanc to prove possession of the land and payment of taxes thereon, the Atty. of the United States objected to the introduction of the evidence as being irrelevant to the issues. But the court overruled the objection and allowed the evidence to be read, whereupon the Atty. of the United States excepted and tenders this as a bill of exceptions praying the same may be signed and made part of the record.

(Signed) THEO. H. McCALEB,
U. S. Judge.

Secondly.—The plaintiffs offered the depositions of B. Marigny and E. Mazureau, taken April 13th, 1847.

(Which see on pages 60–64 of this transcript) which were admitted and read.

Thirdly.—The plaintiffs offered the *affidavit of R. C. Cammack*, filed June 25th, 1847 and already copied on page 76–78 hereof; also the following additional *affidavit of R. C. Cammack*, which, though objected to, was admitted and read as follows, viz:

HEIRS OF JOHN LYND
vs. U. S. D. C.
THE UNITED STATES.

R. C. Cammack being duly sworn states that he is the husband of Rose Lynd one of the claimants. That in addition to the affidavits previously made by him & filed in this case he now states, that since the rehearing was granted in this case, that he has caused the archives in Havana to be searched for the original order of survey and the survey mentioned in the petition in this case. That he has caused the Records at Baton Rouge to be searched for the same papers & that he has made inquiries & caused every depository of papers, to be searched where it was thought that said papers were likely to be found, but that he has not been able to find said original papers or to obtain any information respecting them.

(Signed) R. C. CAMMACK.

Sworn to and subscribed the 31st May 1849, in open court and before

ROBT. M. LUSHER,
Dep. Clk.

"The foregoing [illegible] ffered in evidence by plaintiffs before jury—admitted & filed [illegible]y 31, 1849.

ROBT. M. LUSHER,
Dy. Clk."

Fourthly.—The plaintiffs proposed to offer Document A—already copied on pages 15–38 of this transcript; but the same being objected to by the defendants, it was withdrawn.

Fifthly.—The plaintiffs offered the deposition of Philip Hicky, taken February 28, 1848. Which, being admitted, was read as follows, viz:

HEIRS OF JOHN LYND }
vs. }
THE UNITED STATES. }

Upon this day February 28th, 1848. The plaintiffs represented by their attorney W. W. King, Esq., and the defendants by Thos. J. Durant, U. States District Attorney appeared before me to take the testimony of a witness on behalf of plaintiffs to be used on the trial of this cause entitled the Heirs of John Lynd *vs.* The United States.

"Philip Hicky, witness for plaintiffs, being duly sworn declares that he resides in the Parish of East Baton Rouge about one hundred and twenty-four miles from the City of New Orleans, and has resided there for about sixty-one years—with the exception of three years to wit from the years 1793 to 1795 when he resided in the City of New Orleans.

Witness states that he was well acquainted with Pintado and his hand writing, and being shewn the signature of Pintado, to the report which is annexed to the title, recognizes it to be the genuine signature of said Pintado.

Witness states that he was well acquainted with John Lynd; he first knew him in Natchez before he removed to New Orleans, which he thinks was as early as the year 1800, altho' he cannot state positively. Witness recollects having seen Mr. Lynd at the residence of witness' father in the year 1803: He was there with a number of others who came for the purpose of locating lands, sales of which they had obtained from the Spanish Government.

"Witness does not recollect of his being appointed appraiser of the land in this particular instance, but that he was about the year 1803 very often named appraiser, sometimes by the Individual and sometimes by the Government. Witness has no recollection of having signed this particular report; that he could not say without seeing his signature whether he had signed it or not. That the persons who are mentioned in the report as appraisers he was acquainted [illegible] quently called upon to act as appraisers; he knew the [illegible] also who signed the report; that the said appraisers and [illegible] are now all dead.

Witness being asked if he knew the price at which appraisements of land were usually made, says he cannot state precisely; but he knows that they were very low; generally about sixteen cents an arpent.

Witness has understood that Mr. Lynd was dead. His first wife witness knows was the daughter of Morales the Intendant.

The Attorney of the United States, Thomas J. Durant being present says that he objects to this examination because the case has already been decided by a judgment in favor of the United States, and no rehearing ever granted in form binding on the defendants, waiving objections as to the manner and form of taking it.

(Signed) PHILIP HICKY.

I, N. R. Jennings duly appointed Commissioner to take testimony in Land Causes do certify that the foregoing is the true testimony of the witness Philip Hicky as taken down by me in writing; and that the said testimony being carefully read over to the witness was by him subscribed in my presence.

In witness whereof I hereunto set my hand and seal this 28th day of February A. D. 1848.

[SEAL.] (Signed) N. R. JENNINGS,
Commissioner.

Sixthly: The plaintiffs offered the deposition of Louis Bringier taken April 8th 1848 which was admitted and read as follows:

HEIRS OF JOHN LYND }
VS. }
THE UNITED STATES. }

Be it remembered that on this the 8th day of April A. D. 1848, the plaintiffs represented by their counsel W. W. King Esq. and the defendants represented by the District Attorney Thomas J. Durant appeared before me.—The plaintiffs introduced a witness Louis Bringier whose testimony is to be used on the trial of this cause.

Louis Bringier being by me duly sworn doth depose as follows—

That he is going on sixty-six years of age that he is a native of Louisiana: that he has had his residence nearly the whole of the said time in Louisiana; a portion of the time to wit about three years he had his residence in Arkansas and a portion of the time he was a prisoner in Mexico.

States that he is now surveyor of the parish of Orleans, and ex Officio Surveyor General of the State, an office which he has filled for [illegible] twenty years. [illegible] the copy [illegible] 1st of April 1848, purports to be a true copy was delivered to him by his predecessor in the office of surveyor general as a part of the archives of that office. Carlos Trudeau was the Surveyor General of the Province of Louisiana under the Spanish Government; the State of Louisiana purchased from said Trudeau's heirs his papers, and created the office of Surveyor General to take charge of them. Witness has seen the signature of Carlos Trudeau to the original of the aforesaid copy and being acquainted with the signature of said Trudeau states that the signature thereto is genuine; states that the said original is all of it in the hand writing of said Trudeau, that he witness is well acquainted with Trudeau's hand writing.

Deponent states that he cannot deliver up the original of which the said copy is filed because, the original belongs to the state and he cannot therefore suffer it to be removed from his possession.

The District Attorney being present here objects to all of the foregoing testimony on the ground that the suit is terminated, and not in a condition for testimony to be received and makes no other objections.

(Signed) **L. BRINGIER,**
Surveyor General.

I, N. R. Jennings duly appointed Commissioner to take testimony in land causes do certify that the foregoing is the true, deposition of Louis Bringier that the same was taken down by me writing in answer to the interrogatories propounded to the said witness; which said depositions being carefully read over to witness was by him signed before me.

Witness my hand and seal this 8th day of April, A. D. 1848.

(Signed) **N. R. JENNINGS,**
U. S. Comr.

Seventhly: The Plaintiffs proposed to offer a certain document of which the original is, as of record in the office of the Surveyor General of Louisiana, marked No. 44 I. but objections were raised to the admissibility of the same in evidence—pending which the court adjourned.

And be it further known, that on the succeeding day to wit: May Term 1849, Friday, Jan. 1st 1849, the presentation of documents in evidence was continued as follows, viz:

Seventhly:—doc. "No. 44 I." embracing on

Page 1.—Plan No. 1748 (tracts) Nos. 1, 2, & 3, corresponding identically with that appearing on page 16 of this transcript, and having the following sub-scription:

“En la [illegible] general se tomo razon del plano sentado en el libro No. 6 fol: 8 al plano No. [illegible] de [illegible] Junio 18 de mil ocho cientos y quatro años. Para Copia. Carlos Trudeau, agr.”

Page 2.—Plan No. 1749 (tracts) Nos. 4 & 5, corresponding identically with that on page 17 of this trancript, and having the following sub-scription.

“En la oficina de agrimensura general se tomo razon del presente plano, sentado en el libro No. 6 fol: 9 al plano No. 1749. Para Copia, Junio diez y ocho de mil ocho cientos y quatro años Carlos Trudeau agr.”

Page 3d.—Plan No. 1750 (tract) No. 6, Corresponding identically with that on page 18 of this transcript, and having the following sub-scription.

“En la oficina de agrimensura general se tomo razon del presente plano, sentado en el libro No. 6, folo. 10 el plano No. 1750. Junio diez y ocho de mil ocho cientos y quatro años. Para Copia. Carlos Trudeau, agr. rl.”

Page 4th.—Plan No. 1751 (tracts) Nos. 7, 8 & 9, corresponding identically with that on page 19 of this transcript, and having the following sub-scription.

“En la oficina de agrimensura general se tomo razon del presente plano, sentado en el libro No. 6 folo. 11 al plano No. 1751, Junio diez y ocho de mil ocho cientos y quatro años. Para Copia. Carlos Trudeau agr. rl.”

Page 5th.—Plan No. 1752 (tracts) Nos. 10 & 11, corresponding identically with that on page 20 of this transcript, and under which begins the *diligencia* of Don Vincente Sebastian Pintado (on page 21 of this transcript.)

And on pages 5, 6, 7, 8, 9, 10 & 11, a copy of the said *diligencia* or *proces verbal* of Dn. Vincente Sebastian Pintado, appearing on pages 21 & 27 of this transcript; all as portions of doc. marked A. annexed to Plaintiffs' petition; and, added thereto, (pages 11 & 12), the following certificates which were admitted and allowed to be read before the Jury, as follows, viz:

“Don Carlos Tradeau, agrimensor real y particular de la Pro-
“vincia de la Louisiana &a.

“Certifico los onze planos y la relacion que anteceden copiados
“de los originales que se hallan agregados en el expediente del
“asunto, y registrado en la oficina de agrimensura general, sentado
“en el libro No. 6 desde folio 8 hasta folio 14, y en virtud del
“decreto del Señor Intendente genl. en fecha dos de Mayo ultimo
“pasado, doy la presente a 18 Junio de 1804.

“CARLOS TRUDEAU,
“*Agr. Rl.*”

[illegible] the foregoing eleven plans [illegible] favor of John Lynd, and the procès verbal thereof, with the certificate of Don Carlos Trudeau, to be true and exact copies, of document marked No. 44 letter I. and deposited in the surveyor general's office, under my charge.

In testimony whereof, I have hereunto, set my hand, and seal of office, in the city of New Orleans, this 25th day of March, 1848, year of our Lord, and the seventy third, of the Independence of the U. S. of America.

(Signed) **L. BRINGIER,**
Surveyor General.

Nota:—The foregoing doc: is thus endorsed—" Certificates herein " offered in evidence by plaintiffs before jury—objected to—argued " —objections under advisement—May 31st 1849.

" Reading allowed—June 1, 1849.

" Read in evidence before Jury.

" **ROBT. M. LUSHER,**
Dep. Clerk.

Together with the following

Translation of the former of said Certificates, viz:

Don Carlos Trudeau, surveyor general and special of the Province of Louisiana &c. certify that the eleven plans and the report which precede them, are copied from the originals and are annexed to the proceedings in this case, and are registered in the office of the surveyor general, in Book No. 6 from folio 8 to folio 14, and by virtue of the decree of his Excellency the Intendant General, under date of the 2d of May last, I deliver the foregoing certificate on the 18th June 1804.

(Signed) **CARLOS TRUDEAU,**
Sur. Gen.

I certify the foregoing to be a true translation from the Spanish, of the certificate of Carlos Trudeau.

(Signed) **L. DUVIGNEAUD,**
Interpr. U. S. Dist: Court.

Whereupon, was tendered, signed, and filed the following Bill of Exceptions (to Doc: No. 44. I.):

THE HEIRS OF LYND
vs.
THE UNITED STATES.

District Court of the United States for the Eastern District of Louisiana. Present the Hon. Theo. H. McCaleb Judge.

May Term, 1849.

Be it remembered that on the trial of this cause, on Friday the

1st day of [illegible] court and Jury, the [illegible] petitioners offered to read in evidence to the Jury a document [illegible] No. 44 I, being a copy made by L. Bringier, surveyor general [illegible] Louisiana, of a document signed by Carlos Trudeau "Agrimensor General" dated 18th June 1804; the counsel of the United States objected to the reading of said document on the ground that it was illegal, but the court overruled the objection, and suffered the document to be read: whereupon the counsel of the United States excepts, and tenders this as a bill of exceptions praying that the same may be signed and made part of the record.

[SEAL.] (Signed) THEO. H. McCALEB,
U. S. Judge.

Eighthly.—The plaintiffs offered the *Oral Testimony of Jno. L. Daniel.* Which was taken down in the words following, viz:—

John L. Daniel Esq: sworn. Has examined almost every claim for lands in Louisiana; is very familiar with all such. Witness is likewise familiar with the modes in which the Spanish officers did business in relation to land matters, his knowledge derived from examination of papers, as he has already said, relating to claims for land. Never surveyed lands himself, but has been a great deal with surveyors; from such associations, thinks he could come, within a month or two at an accurate estimate of the time needed for a survey. Could tell what time would be needed for a survey of land claims—in Florida for instance. Has been on the River Amite; it would be difficult in some places to survey these.

Looking at the plans in Document "No. 44, I."—witness knows but little of the lands of which surveys are found therein; has never been on them. Witness has been with surveyors when they were surveying lands—very often and a great deal.

As to lands such as are represented in said Document "No. 44, I."

Excepted to.—Witness thinks that it would take (Spanish mode)—between the issuing of the order to survey and the execution and return thereof (judging from what it has usually taken), about a year or eighteen months—shortest time; never saw any that took place in a shorter time.—If done within six months, it would be with more than usual despatch.

No cross questions propounded.

Attest. (Signed) ROBT. M. LUSHER,
Dep. Clerk.

Whereupon, was tendered, signed, and filed, the following—

Bill of Exceptions.

Heirs of John Lynd
vs.
The United States.

District Court of the United States for the Eastern District of Louisiana, before the Hon. Theodore H. McCaleb, Judge. May Term, 1849.

Be it remembered that on this Friday 1st June 1849, on the trial of this cause before the court and jury, a witness for the petitioners John L. Daniel being on the stand, the counsel for petitioner offered to ask said witness how long it would probably take to make and return a survey of the eleven tracts of land mentioned in the Document I, already offered in evidence and objected to; whereupon the counsel of the United States objected to said question as being illegal, but the court overruled the objection and allowed the question to be put, the counsel of the United States excepted to the admission of said testimony and tenders this as a bill of exceptions which he prays may be signed and made a part of the record.

(Signed) THEO. H. McCALEB,
U. S. Judge.

Ninthly and *Lastly:* The plaintiffs now again proposed to offer in evidence Doc. A. (already copied at length on pages 15—38 of this Transcript) which, after argument on the objections raised thereto by the defendants, was admitted and read to the jury (per the translation thereof on pages 39—57); whereupon was tendered, signed, and filed the following

Bill of Exceptions.

The Heirs of John Lynd
vs.
The United States.

In the District Court of the United States for the Eastern District of Louisiana, before the Honorable Theodore H. McCaleb, Judge. May Term 1849.

Be it remembered that on this Friday the first day of June 1849, on the trial of this cause before the court and jury, the counsel for petitioners offered to read in evidence to the jury the Document marked A filed with his petition, and purporting to be signed by Juan Ventura Morales in Pensacola, on the twelfth day of July 1806—the counsel of the United States objected to the reading of said document on the ground that it was illegal, but the court overruled said objection and allowed said Document A to be read, whereupon the counsel of the United States excepted and tenders this as

his bill of exceptions praying that the same may be sig
a part of the record.
[SEAL.] (Signed) THEO. H. McCALEB,
U. S. Judge.

Close of Evidence.

And thereupon on the said Friday, June 1st 1849 May Term 1849, was duly entered of record the following minute of the

Trial and Submission of Issues.

The hearing of the "issues" herein and of argument on the admissibility of the various documents offered as evidence by the plaintiffs was this day resumed before the court and jury. The court admitting said documents, the defendants thereupon, tendered successively three several bills of exceptions, which were signed by the court and filed of record.

The jury having then been re-called and the panel found complete, evidence was read to them and argument of counsel heard; after which, under charge from the court, and with Thos. B. Lee appointed their foreman, they retired to consider of their verdict on the following "issues." To wit:

First. "Was there, or was there not, an order of survey issued "on or about the 26th day of September 1803, by the duly authoriz-"ed officers of the Spanish government, directing the survey of "thirty two thousand and twenty five (32,025) arpents, or any other "quantity of land in the District of Baton Rouge, for John Lynd, "deceased, the father of the complainants?

Second. Were the surveys, figurative plans of which are annexed to complainants' bill made under the said order, or not?

Third. "Was there, or was there not, a survey made, under the "authority of the proper officers of the Spanish government, of "32,025 superficial arpents of land for the said John Lynd, in the "month of October or November, or prior to the 20th of December "1803?

Fourth. Are the plans and surveys of 32,025 arpents of land and "the report of Pintado, the surveyor, annexed to the complainant's "bill, genuine documents made by the officers purporting to have "made them, or are they not?

Fifth. "Were the tracts of land, the figurative plans of the sur-"veys of which are annexed to complainants' bill, surveyed, or not, "by Pintado, at the time at which, by the report, they purport to [illegible] surveyed, or [illegible] of March, [illegible]

Sixth. "Is the title annexed to complainants' bill and purporting "to have emanated from Morales, genuine, or is it not?

Seventh. "Did or did not, the said John Lynd pay the Spanish "government for the said 32,025 arpents of land?"

After consultation, the jury returned into court with their verdict in the words and figures following, to wit:
"The jury makes the answer in the affirmative to all the issues.
"THOS. B. LEE,
"June 1st 1849. "*Foreman.*"

Which verdict was by the court ordered to be recorded.

And subsequently, at the same term, to wit: on Saturday, June 2d 1849

This cause was taken up by consent; when the plaintiffs offered in evidence (as attested on the Docket)

1°. The finding of the jury on the "issues" yesterday submitted to them, with the record of the evidence and proceedings had before them.

2°. The deposition of Isidore Labatut, April 13th 1847, already copied on page 58 of this transcript.

Whereupon was entered of record on the minutes of the court, of said June 2d 1849, the following

HEIRS OF JNO. LYND,
vs. } 120
THE U. STATES.

Judgment pro confesso, discontinuance and final submission.

This cause was to day taken up to be heard before the court, W. W. King, Esq. appearing for the complainants and Thos. J. Durant, Esq. for the defendants.

Whereupon, on motion of complainant's solicitor shewing to the court that Thomas W. Scott, David Thomas, Saml. McManus and John Carr have all been served with copies of the petition, but have not answered thereto, it is ordered that judgment pro confesso be and the same is hereby entered up against said parties defendant; ——— and ——— on further motion of the same, it is ordered that, as against John McQuinn, Westley Waddle, S. W. Hackney and Beverly Dunn, parties defendant who have abandoned the lands in controversy and left the country, a discontinuance be and the same is hereby entered up;—and after evidence offered and argument, the court took the case under advisement.

And [illegible] Wednes[illegible] 1849 was rendered and duly recorded [illegible] following

Judgment.

Which was engrossed, signed and filed on the 14th June, 1849, in the words & figures following, viz:

HEIRS OF JOHN LYND vs. THE UNITED STATES.	No. 120. Land Docket.

The court, having taken this case under consideration, and having examined the evidence and the finding of the jury upon the issues of fact presented to them, is now of the opinion that the title of the complainants to the land in controversy is valid; that, under the laws, usages and customs of the Spanish government, the complainants were entitled to the land and might have perfected their title thereto, if the sovereignty of the country had not been transferred, and that their title was protected by the treaty between the United States of America and the French Republic of the 30th of April 1803; further that the case is one provided for by the act of Congress of the 26th of May, 1824, revived and continued in force by the act of 17th of June, 1844, and that John Lynd, the father of the present complainants, who are his heirs, was, at the date of his grant, a resident of Louisiana.

It is, therefore, ordered, adjudged, and decreed that the complainants, Henry J. Lynd, Robert S. Lynd, William C. Lynd, and Rosè Lynd wife of R. C. Cammack, have judgment against the United States for the thirty-two thousand and twenty-five superficial arpents of land described in the plans and surveys annexed to the original petition and marked Exhibit A.; the said land being particularly described in said plans and surveys and also in the copy of said plans and surveys certified to by Ls. Bringier, Surveyor General of Louisiana, offered in evidence in this case, and endorsed "No. 44 I."

And it is further ordered, adjudged, and decreed, that if, after a proper survey made, it be ascertained that any of the lands above described shall have been sold or otherwise disposed of by the United States, said complainants shall be and they are hereby authorized to enter a like quantity of the public lands of the United States, as provided by the eleventh section of the act of Congress approved on the 26th of May, 1824.

Judgment rendered, June 13th, 1849.

Judgment signed, June 14th, 1849.

[SEAL.] (Signed) THEO. H. McCALEB,
U. S. Judge.

And thereafter and finally, at the same Term, on the said 14th [illegible], A. D. 18[illegible] [illegible], granted, and [illegible] following

Order of Appeal.

EAST. DIST. OF LOUISIANA.

Before the Hon. T. H. McCaleb.

On motion of Logan Hunton, Attorney of the United States for the District aforesaid, and of Thomas J. Durant on the same behalf, and on giving the court to understand and be informed that the United States are injured and aggrieved by the judgment of this Honorable Court against them rendered at this Term in the matter of the Heirs of John Lynd *versus* the United States, and desire to appeal therefrom.

It is thereupon ordered by the court that an appeal be allowed in favor of the United States from the judgment aforesaid, returnable to the Supreme Court of the United States at the next Term thereof after the date of this order.

UNITED STATES OF AMERICA,
Eastern District of Louisiana:

I, Needler R. Jennings, Clerk of the District Court of the United States sitting at New Orleans in and for said district, do hereby certify, that the foregoing one hundred and seven folios, including plans on folios 16, 17, 18, 19, 20 contain and form a true, faithful, correct and complete transcript of all the proceedings, process, pleadings, documents, and other matters on file and of record in a certain cause in chancery wherein the heirs of John Lynd are plaintiffs and the United States of America, defendants, No. 120 of the land docket of said court.

In testimony whereof, I have hereunto set my hand, and affixed the seal of said court, at the city of New Orleans, this first day of September, one thousand eight hundred and forty-nine, and the 74th year of American Independence.

[SEAL.] N. R. JENNINGS,
Clerk U. S. District Court, Eastern Dist. of Louisiana.

I, Theodore H. McCaleb, Judge of the District Court of the United States for the Eastern District of Louisiana, do certify, that N. R. Jennings, who subscribed the above certificate, was, at the time of signing the same, and is now, the duly appointed and legally authorized clerk of said court; that full faith and credit are due and ought to be given to all his attestations as such clerk, and that his above certificate is in due form of law.

Witness my hand and seal at New Orleans this 24th day of September A.D. 1849.

[SEAL.] THEO. H. McCALEB,
U. S. Judge.

THE UNITED [illegible]

To Henry J. Lynd, Robert S. Lynd, William C. Lyn[illegible] [illegible] Lynd, wife of R. C. Cammack, heirs &c. of John Lynd, decd. greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington on the first Monday of December next, pursuant to an Order of Appeal granted, on the fourteenth day of June, 1849, by the District Court of the United States in and for the Eastern District of Louisiana, in a certain cause in Chancery, (under the Acts approved May 26th, 1824, and June 17th, 1844,) entitled, (No. 120) *The Heirs of John Lynd* vs. *The United States*, wherein the said United States of America are Appellants, and you are Appellees, to show cause, if any there be, why the judgment rendered against the Appellants, as in the said Order of Appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf..

Witness hereto my hand, and the Seal of the said Court, at the city of New Orleans, this twenty-fourth day of September, A. D. 1849.

[SEAL.] THEO. H. McCALEB,
Judge of U. S. District Court Eastern District of Louisiana.

ELMORE & KING,
Attys.

Attest: ROBR. M. LUSHER,
Dy. Clerk.

EASTERN DISTRICT OF LOUISIANA,
United States District Court:

No. 120.

Orig. { HEIRS OF JOHN LYND vs. THE UNITED STATES. } Citation of Appeal.

MARSHAL'S RETURN.

Recd. Oct. 9, 1849, & on the 16th October, 1849, served a copy of the within citation of appeal on R. C. Cammack, Esq., representing one of the heirs & at the time accepting service for all of the heirs, by handing the same to him in person at New Orleans.

M. M. THOMAS,
U. S. Dy. Marshal East. Dist. La.

Returned 19 Oct. 1849.

Return registered Oct. 19, 1849.

ROBR. M. LUSHER,
Dy. Clerk.

Filed 6th December, 1849.

THE UNITED STATES, APPELLANTS,

vs.

[illegible] ET AL.

APPEAL FROM THE DISTRICT COURT [illegible] FOR THE EASTERN DISTRICT OF LOUISIANA.

Original. Print.
Petition of libellants [illegible]
Citation and marshal's return [illegible]
Answer of defendant [illegible]
Entry of [illegible]
Evidence offered by plaintiff [illegible]
[illegible]
[illegible]
[illegible], 184[illegible] [illegible]
Decree of court [illegible]
Entry of record; judgment [illegible]
June 19th, 184[illegible] [illegible]
Do. Order of appeal [illegible]
Plats:
Sketch and [illegible]
Certificate of appeal and return [illegible]
[illegible]